Mayor
Honorable Tom Ellis

City Manager
Jason A. Tuck, ICMA-CM

Happy Valley Municipal Code: Land Development Code Effective December 31, 2022 – January 4, 2023

ARTICLE 16.1 INTRODUCTION

Chapter 16.11 GENERAL ADMINISTRATION

16.11.010 Title.

This title and its chapters shall be known and may be cited and referenced as the "City of Happy Valley, Oregon, Land Development Code" ("LDC") or "this Code."

16.11.020 Severability.

The provisions of this title are severable. If any section, sentence, clause or phrase of the title is adjudged to be invalid by a court of competent jurisdiction, that decision shall not affect the validity of the remaining portion of the title.

16.11.030 Compliance and scope.

A. Area of Applicability. This title and all amendments to it shall be applicable to all land areas within the incorporated limits of the City as determined by the latest official boundary survey or legal description of those incorporated limits. This title shall not apply to land outside the incorporated limits of the City, but shall apply to annexed lands without regard as to whether said lands retain an interim Clackamas County Comprehensive Plan designation/zoning district or an official City of Happy Valley Comprehensive Plan designation/zoning district.

B. Compliance with the Provisions in the Land Development Code. Land and structures may be used or developed only as this title or any amendment thereto permits. No plat shall be recorded or no building permit shall be issued without compliance with the provisions of this title.

C. Obligation by Successor. The requirements of this title apply to the owner(s) of record, persons undertaking the development or the use of land, and to those persons' successors in interest.

D. Most Restrictive Regulations Apply. Where this title imposes greater restrictions than those imposed or required by other rules or regulations, the most restrictive or that imposing the higher standard shall govern.

E. Variances. Variances shall be governed by the provisions of Chapter 16.71.

F. Transfer of Development Standards Prohibited. No lot area, yard, landscaping, or open space that is required by this title for one use shall be a required lot area, yard, landscaping, or open space for another use, except as otherwise specifically allowed by this title.

16.11.040 Consistency with Plan and Laws.

A. Any action initiated under this specific title shall be consistent with the adopted Happy Valley, Oregon Comprehensive Plan, the latest adopted edition of the Oregon Structural Specialty Code, all applicable State and Federal laws, and other ordinances, regulations or codes as may be appropriate and applicable, whether Federal, State or local. Any action initiated under this specific title shall be coordinated with all other adopted plans, laws, ordinances, regulations or codes in order to insure orderly and uniform development.

B. Minimum Requirements Intended. In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the protection of the public health, safety, and general welfare.

C. Violation of Code Prohibited. No person shall erect, construct, alter, maintain or use any building or structure or shall use, divide or transfer any land in violation of this Code or any amendment thereto.

16.11.050 Use of a development.

A development shall be used only for a lawful use. A lawful use of a development is one that is permitted by this Code (including nonconforming uses, subject to Chapter 16.72), and is not prohibited by law. Any use which becomes nonconforming at the adoption of this title shall not be an unlawful use, but shall be governed by the criteria and procedures as set forth in Chapter 16.72.

16.11.060 Pre-existing approvals.

A. Legality of Pre-Existing Approvals. A development or uses that was approved by the City or Clackamas County prior to the effective date of the ordinance codified in this Code may continue pursuant to such approvals. A modification to an approved development or use shall comply with Chapter 16.66, Modifications to Approved Plans and Conditions of Approval.

B. Subsequent Development Applications. All developments and uses initiated on or after the effective date of the ordinance codified in this Code shall conform to the provisions of this Code.

16.11.070 Conformity of permits.

No permit shall be issued by the Building Official for the construction, reconstruction, alteration or change of use of a structure or lot that does not conform to the requirements of this title, unless an exception applies.

16.11.080 Official action.

A. Official Action. The Planning Official or designee is vested with authority to issue permits or grant approvals in conformance with this Code, and shall issue no permit or grant approval for any development or use which violates or fails to comply with conditions or standards imposed to carry out this Code.

B. Severability. Any permit or approval issued or granted in conflict with the provisions of this Code shall be void, unless it is modified to conform to the Code. The City Manager and designees shall determine when an approval is void and he or she may modify the approval, or refer it back to the original decision making body for modification, to make it conform to the Code.

C. Notice. The failure of any person to receive mailed notice or failure to post a notice shall not invalidate any actions pursuant to this Code, provided a good faith effort was made to notify all parties entitled to notice.

16.11.090 Official maps.

Maintenance of Official Maps. The City of Happy Valley maintains several official maps that are regularly updated or amended, and in some cases, are located within ancillary documents to the City's Comprehensive Plan. Said maps include, but are not limited to, the following:

1. Comprehensive Plan Map/Zoning Map;
2. Damascus-Boring Concept Plan Map;
3. Pleasant Valley Concept Plan Map;
4. East Happy Valley Comprehensive Plan Map;
5. Rock Creek Comprehensive Land Use Plan Map;
6. Aldridge Road Sub-Area Plan Map;
7. Parks Master Plan Map;
8. Local Wetland Inventory and Stream Assessment Maps;
9. Transportation System Plan Maps;
10. Happy Valley Steep Slopes and Natural Resources Overlay Zone Map;
11. Sunnyside Corridor Community Plan Maps;
12. Clackamas Regional Center Area Design Plan Maps.

Chapter 16.12 DEFINITIONS

16.12.010 Purpose.

The purpose of Chapter 16.12 is to define terms that are used frequently in the City of Happy Valley Development Code, to assist decision makers in interpreting and applying the Code. Some of the terms that are defined here may have different meanings in other communities. When not inconsistent with the context, words used in the present tense shall include the future; the singular tense shall include the plural, and the plural the singular; the word "shall" is always mandatory and the word "may" denotes a use of discretion. For the purposes of this title certain terms and words are defined in this section. Specific definitions which shall also apply to this title may be found in various appropriate sections throughout.

16.12.020 Applicability.

Definitions. The definitions in Section 16.12.030 apply to all actions and interpretations under the City of Happy Valley Development Code. The meanings given terms in this chapter may, in certain contexts in

which they are used, be clearly inapplicable. In such cases the context in which a term is used will indicate its intended meaning, and that intent shall control. Where a term used in this Code is already defined in another part of the City of Happy Valley Code (e.g., the Building Code, etc.) the term is not redefined herein for purposes of that other code. Terms not defined in this Code shall have their ordinary accepted meanings within the context in which they are used. Webster's Third New International Dictionary of the English Language, Unabridged, shall be considered a standard reference.

16.12.030 Definitions.

The following definitions are organized alphabetically and some related terms are also grouped together and cross-referenced under group leadings (e.g., Lot Types). See also Chapter 16.21 for descriptions of the land use districts.

Abutting. Properties that share a common property line at any point along the boundary of either property. Abutting includes the terms adjacent, adjoining and contiguous. Abutting includes properties that are separated by a private roadway, driveway or drive aisle but does not include properties that are separated by a public right-of-way.

Access. The way or means by which pedestrians and vehicles enter and leave property.

Access drive. An improved internal street within a commercial development that provides vehicular access to a commercial complex or parking area, typically bordered by structures.

Access easement. An easement recorded for the purposed of providing vehicle, bicycle, and/or pedestrian access from a public street to a parcel across intervening property under separate ownership from the parcel being provided access. Cross access is a service drive providing vehicular access between two or more separate sites, so that the driver need not enter the public street system between sites.

Access management. The systematic control of the location, spacing, design, and operation of driveways, median openings interchanges, and street connections to a roadway to minimize conflicts between turning and through vehicles, bicyclists and pedestrians. The purpose of access management is to provide vehicular access to land development in a manner that preserves the safety and efficiency of the transportation system. Public facility measures to support access management include roadway design applications, such as median treatments and auxiliary lanes, and the appropriate spacing of traffic signals. Measures that may be included as conditions of approval for development decisions include but are not limited to (1) standards such as minimum spacing of driveways and onsite vehicle storage requirements, (2) mitigations related to site conditions such as right-in-right-out only approaches, medians, dedicated turn lanes, and shared access approaches, and (3) provision for future opportunities for mitigation by land dedication or easement.

Access spacing/intersection spacing. The minimum required distance from an intersection of a public or private street to the nearest driveway or other access connection, measured from the closest edge of the pavement of the intersecting street to the closest edge of the pavement of the connection along the traveled way.

Accessible. Two meanings are possible depending on the specific code provision: In general, accessible means approachable by pedestrians, vehicles or other transportation mode, as applicable. Accessible may also mean approachable and useable by people with disabilities, in conformance with the Federal Americans With Disabilities Act. Either or both definitions may apply in a particular situation.

Accessible route. A route that can be used by a disabled person using a wheelchair and that is also usable by people with other disabilities.

Accessory. Secondary or incidental to a primary use or structure.

Accessory dwelling unit. A second dwelling unit created on a lot with a house, attached house, or manufactured home. The second unit is created auxiliary to, and is always smaller than, the house, attached house, or manufactured home.

Accessory parking facility. A parking facility that provides parking for a specific use or uses. The facility may be located on or off the site of the use or uses to which it is accessory. A fee may or may not be charged. An accessory parking facility need not be in the same ownership as the specific uses to which it is accessory.

Accessory structure (or accessory building). Structure of secondary importance or function on a site. In general, the primary use of the site is not carried on in an accessory structure. Accessory structures may be attached or detached from the primary structure. Examples of accessory structures include, but are not limited to: detached garages, covered rear porches or porticos ("outdoor rooms"), covered front porches, sheds, decks, fences, arbors, gazebos, heat pumps, and other structures. See also "primary structure."

Accessory use. A use or activity that is a subordinate part of a primary use and that is clearly incidental to a primary use on a site. See also "primary structure."

Accessway. See "access drive."

Adjoining. See "abutting."

Administrative. A discretionary action or permit decision made without a public hearing, but requiring public notification and an opportunity for appeal.

Adult foster care. A family home or facility in which residential care is provided for five or fewer adults who are not related to the provider by blood or marriage. "Provider" means any person operating an adult foster care home. See also "residential home/group care home."

Adverse impact or effect. Negative effect that can be measured (e.g., noise, air pollution, vibration, dust, property values, etc.).

Affordable housing. Housing affordable to a certain percentage of the population earning a specified level of income and spending no more than thirty (30) percent of their income on housing expenses. For more information, contact the Federal Department of Housing and Urban Development and the Oregon Department of Housing and Community Services.

Agriculture. The raising and harvesting of plants for the purpose of obtaining a profit. The raising of animals or plants for personal household use is permitted by right in all development districts in the City. See ORS 215.203(2)(a).

Alteration. A physical change to a structure or site. Alteration does not include normal maintenance and repair or total demolition. (See also "interior/exterior alteration.") Alteration does include the following:

1. Changes to the exterior of a building;
2. Changes to the interior of a building;
3. Increases or decreases in floor area of a building;

4. Changes to other structures on the site, or the development of new structures;
5. Changes to exterior improvements;
6. Changes to landscaping; and
7. Changes in the topography of the site.

Alternative antenna support structures. Roofs of buildings, provided they are thirty (30) feet or more in height above the street grade upon which such buildings front, church steeples, existing and replacement utility poles, flagpoles, street light standards, traffic light and traffic sign structures, billboards and commercial signs and other similar man-made structures and devices that extend vertically from the ground to a sufficient height or elevation to accommodate the attachment of antennas at an altitude or elevation that is commercially desirable for wireless communications signal transmission and reception.

Amateur radio. The licensed and private use of designated radio bands, for purposes of private recreation, noncommercial exchange of messages, experimentation, self-training, and emergency communication pursuant to an amateur operator license granted by the Federal Communications Commission. Amateur radio is also commonly referred to as "ham radio."

Ambient. Normal or background environmental condition, as in the level of light, dust or noise.

Antenna. A specific device used to receive or capture incoming and/or to transmit outgoing radio-frequency (RF) signals, microwave signals and/or other communications energy transmitted from, or to be received by, other antennas. Antennas regulated by this title include omnidirectional (or "whip") antennas, directional (or "panel") antennas, micro cell, parabolic (or "dish") antennas and any other devices designed for the reception and/or transmission of radio-frequency (RF) signals or other communication technologies. Antenna does not include support structures, utility structures, or support towers.

Antenna array. A grouping of two or more antennas on a single support structure, support tower, or utility structure.

Antenna height. The vertical distance measured from the ground surface at grade to the tip of the highest point of the antenna on the proposed or existing structure.

Antenna support structure. A structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennas at a height, altitude or elevation which is above the base of such structure. Antenna support structures include, but are not limited to, the following:

1. "Lattice tower" which is a vertical support structure consisting of a network of crossed metal braces, forming a tower which may be three, four or more sided;
2. "Monopole tower" which is a vertical support structure consisting of a single vertical metal, concrete or wooden pole, pipe, tube or cylindrical structure, typically round or square, and driven into the ground or mounted upon or attached to a foundation.

Applicant. A person who applies for a land use review or building permit. An applicant can be the owner of the property or someone who is representing the owner, such as a builder, developer, optional purchaser, consultant, or architect.

Approval. Written approval by the City or an approved representative of the City.

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

Arcade. An arched or covered passageway; often along building fronts or between streets.

Architect. An architect licensed by the State of Oregon.

Articulate/articulation. The jointing and interrelating of building spaces through offsets, projections, overhangs, extensions and similar features.

Assessment. For the purposes of Section 16.42.070, the amount imposed as a charge for street lighting service.

Attached structure. Any structure that is attached to another structure by a common wall, by a roof, or by structural connections that allow pedestrian access to both structures. For example, decks or stairways are attached structures when they are connected to another structure. A garage may be attached to another structure by sharing a wall or by a breezeway. Structures connected by an "I" beam or similar connections are not considered attached.

Automobile-dependent development. Primary or accessory uses servicing motor vehicles, or patrons in motor vehicles, such as motor vehicle repair, gas station, car wash, auto and truck sales, drive-up windows, kiosks, and similar uses.

Automobile-oriented development. Development in which the site layout and design gives preference to automobiles as the primary mode of transportation.

Automobile-oriented use. Automobiles and/or other motor vehicles are an integral part of the use, such as drive-through restaurants and banks.

Auxiliary support equipment. All equipment necessary to provide wireless communications signals and data transmission, including, but not limited to, coaxial or fiber-optic cables, auxiliary power equipment, and electronic processing devices. Auxiliary support equipment also includes the shelter, cabinets, and other structural facilities used to house and shelter necessary equipment. Auxiliary support equipment does not include antennas, support towers, utility structures, support structures, or external cables and wires that are not required to provide backup power to a wireless communication facility.

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

Bankful stage. Defined in OAR 141-85-010 (definitions for Removal/Fill Permits) as the stage or elevation at which water overflows the natural banks of a stream or other waters of the State and begin to inundate upland areas. In the absence of physical evidence, the two-year recurrent flood elevation may be used to approximate the bankful stage.

Basement. That portion of a building which has less than one-half of its height measured from finished floor to finished ceiling above the average elevation of the adjoining grade.

Base station. A structure that supports or houses an existing antenna, auxiliary support equipment, transceiver, or other associated equipment, encompassing such equipment in any technological configuration, which has been reviewed and approved under applicable codes. Base station does not include support towers or any equipment associated with a support tower.

Bed and breakfast inn. Any establishment located in a structure designed for a single-family residence and structures appurtenant thereto, regardless of whether the owner or operator of the establishment resides in any of the structures, that:

1. Has more than two rooms for rent on a daily basis to the public; and
2. Offers a breakfast meal as part of the cost of the room.

Berm. A small rise or hill in a landscape which is intended to buffer or visually screen certain developments, such as parking areas.

Bikeway/bicycle facility. There are different types of bicycle facilities. In general, a "bicycle facility" is a public or private way designed for and dedicated to bicycle use. It may consist of a road, a lane within or on the shoulder of a road, a path, multi-use path, or other way that is specifically designated for bicycle travel or shared bicycle/pedestrian travel.

Block. All of the property bounded by streets, rights-of-way, and water features, but is not divided or separated in any way by streets or water features.

Block frontage. All of the property fronting on one side of a street that is between intersecting or intercepting public streets, or that is between a public street and a natural water feature, or end of a dead end street. An intercepting street determines the boundary of the block frontage only on the side of the street that it intercepts.

Bollard. A post of metal, wood or masonry that is used to separate or direct traffic (vehicles, pedestrians and/or bicycles). Bollards may contain sidewalk or pathway lighting.

Buffer (wetland). An area established adjacent to a significant wetland which protects the resource from impacts.

Building. Any structure that has a roof and is enclosed on at least fifty (50) percent of the area of its sides, built and maintained for the support, shelter or enclosure of persons, motor vehicles, animals or personal or real property of any kind.

Building area. The total area of a building, both above and below ground, measured from the exterior faces of a building or structure. Gross building area does not include the following:

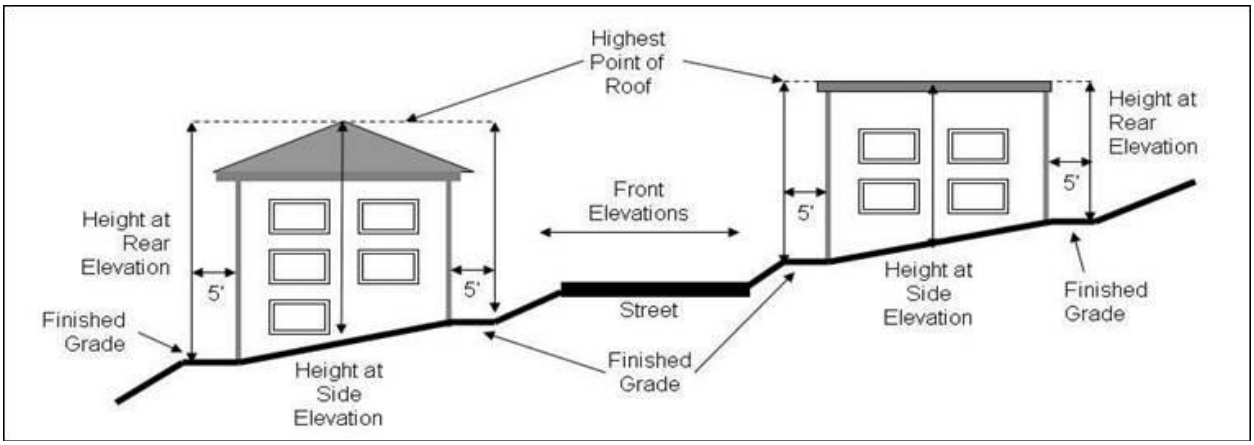
1. Roof area;
2. Roof top mechanical equipment; and
3. Roofed porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than forty-two (42) inches in height, for fifty (50) percent or more of their perimeter.

Building coverage. See "lot coverage."

Building footprint. The outline of a building, including any roofed structure. A roofed structure includes any structure more than six feet above grade at any point, and that provides an impervious cover over what is below. Building footprint also includes uncovered horizontal structures such as decks, stairways and entry bridges that are more than six feet above grade. Eaves are not included in building coverage. Underground facilities and structures are defined based on the foundation line.

Building frontage. The front façade of a building facing a public or private street or an access drive of more than two hundred (200) feet in length.

Building height (or "structural height"). The height of a building or structure as measured from the elevation of the finished grade (see definition of "grade, finished") to the highest point of the coping of a flat roof or the highest gable of a pitched or hipped roof. This definition shall not apply to broadcast towers or antennae connected to or separate from any structure.



Building mass. The aggregate size of a building.

Building limits. A line on a plat indicating the limit beyond which buildings or structures may not be erected.

Building line. A line running parallel to a lot line that is the same distance from the lot line as the closest portion of a building on the site.

Building Official. The person who enforces the building ordinances and regulations for the City, and other ordinances and regulations as assigned.

Building pad. A vacant building site on a lot with other building sites.

Building permit. A permit for any structure, obtained in accordance with appropriate portions of the Uniform Building Code and any other applicable code, ordinance or statute.

Building scale. The dimensional relationship of a building and its component parts to other buildings.

Building site. The area on a lot or parcel that is designated to contain a structure, impervious surface or non-native landscaping.

Build-to line. A maximum front or street yard setback which is typically required along commercial street frontages to promote a storefront character and pedestrian-oriented design.

Bus stop. A location where bus service stops to load and unload passengers. For purposes of measuring, the bus stop is the location of a sign denoting the bus stop.

Camouflaged. Any wireless or communication facility that is designed to blend into the surrounding environment. Examples of camouflaged facilities may include architecturally screened roof-mounted antennas integrated into architectural elements, towers painted to match the ambient background colors, and employing similar techniques to minimize the visual impact of the facility.

Canopy. A permanent roofed structure that may be freestanding or be partially attached to a building, for the purpose of providing shelter to patrons on foot and/or in motor vehicles; does not include a completely enclosed structure.

Capacity. Maximum holding or service ability, as used for transportation, utilities, parks and other public facilities.

Carport. A stationary structure consisting of a roof, its supports, not more than one wall or storage cabinets substituting for a wall, used to shelter motor vehicles, recreational vehicles, or boats.

Cemetery. Land used or intended to be used for the burial of the dead and dedicated and approved for cemetery purposes, including columbariums, crematories, mausoleums and mortuaries, when operated in conjunction with and within the boundaries of such cemetery.

Centerline radius. The radius of a centerline of a street right-of-way.

Certificate of occupancy. A certificate of occupancy or a certificate of inspection issued by the City at the completion of a building permit or change of occupancy.

Change of use. Change in the primary type of use on a site.

Child care home. The utilization of a private residence as a certified child care home that has been certified under ORS 657A.280 by the Oregon Child Care Division.

City. The City of Happy Valley, Oregon.

City Engineer. The City Engineer for the City of Happy Valley is the professional engineer (P.E.) that holds the title of City Engineer, or the City Engineer's designee.

City Manager. The City Manager or the City Manager's designee, except where the context expressly requires otherwise.

Clear and objective. Decision criteria and standards that do not involve substantial discretion or individual judgment in their application.

Clearing. Any activity that removes existing vegetation or strips surface material from any portion of the site.

Collocation. For the purposes of Section 16.44.020, the mounting or installation of antennas and/or auxiliary support equipment on an existing support tower, support structure, replacement structure or base station for the purpose of transmitting and/or receiving radio frequency signals for wireless communication purposes, but not including installation of a replacement structure or a substantial change in the physical dimensions of the existing wireless communications facility, as defined below.

Commercial vehicles. For the purposes of Title 16, commercial vehicles are defined as being designed or used primarily for the transportation of property for compensation or profit, and include dump trucks, tractor-trailers, large commercial trailers, larger tow trucks, flat-bed trucks, larger box vans, etc. Depending on the nature of the commercial vehicle, further criteria for evaluation is that a commercial motor vehicle is a vehicle that will be operating at a gross vehicle weight rating or combination weight of twenty-six thousand one (26,001) pounds or more. The definition also includes vehicles designed to transport sixteen (16) or more persons and vehicles designed to transport hazardous materials regardless of weight. This definition excludes fire trucks, emergency vehicles, motor homes and recreational vehicles operated solely for personal use, as well as SUVs, oversized "pick-up" trucks (for example, F-350s, "dualies," etc., that may have a "T" plate commercial license but are less than twenty-six thousand one (26,001) pounds gross vehicle weight (empty)).

Commission. The Happy Valley Planning Commission as appointed by the City Council.

Common area. Land commonly owned to include open space, landscaping or recreation facilities (e.g., typically owned by a homeowners' association).

Common green. A courtyard that provides for pedestrian and bicycle access, but not vehicle access, to abutting property and generally provides a common area for use by residents. A common green may function as a community yard. Hard and soft landscape features may be included in a common green, such as groundcover, trees, shrubs, surfaced paths, patios, benches, or gazebos.

Comprehensive plan. Those coordinated plans which have been adopted by the City of Happy Valley which designate plans and programs to encourage the most appropriate use of land and which outlines goals and policies and establishes guidelines which will guide development throughout the City in the interest of the public health, peace, safety and welfare.

Computations (drainage). For the purposes of Chapter 16.51, calculations, including coefficients and other pertinent data, made to determine the drainage plan with flow rates of water given in cubic feet per second (cfs).

Conditional use. A use that requires a conditional use permit and which may be allowed upon approval of the Planning Commission or appropriate and designated body or agent and subject to requirements, stipulations and conditions as stated by City ordinances which will insure the public health, safety, peace and general welfare of the community.

Condominium. Ownership of a single unit in a multi-unit structure that includes common areas and facilities.

Congregate housing. Multi-unit housing with self-contained apartments that contain cooking facilities which support independent lifestyles for those that have life-function disabilities due to age, medical, or mental condition, which do not require residential care or skilled nursing services. Congregate housing provides varying levels of support services, such as meals, laundry, housekeeping, transportation, and social, recreation, cultural and education activities.

Conservation easement. An easement that protects identified conservation values of the land, such as wetlands, woodlands, significant trees or groves, floodplains, wildlife habitat, and similar resources.

Constructed wetlands. Wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and/or separated from naturally occurring or created wetlands.

Continuing care retirement community (CCRC). An age-restricted development that provides a continuum of accommodations and care, from independent living to convalescence care and long-term skilled nursing care, and enters into contracts to provide lifelong care. A CCRC typically includes a full range of living arrangements from independent living, congregate housing, residential care and skilled nursing and sometimes hospice care. CCRCs provide a range of ancillary facilities and services such as health care, meals with common dining facilities, physical therapy, education, recreation, and other social and cultural activities.

Copy (sign). For the purposes of Chapter 16.45, any written or graphic information on a sign.

Corner radius. The radius of a street corner, as measured around the curb or edge of pavement.

Cornice. The projecting horizontal element that tops a wall or flat roof.

Council. The elected members which constitute the governing body of the City, referred to as the City Council of Happy Valley, Oregon.

County. Clackamas County, Oregon.

Courtyard. A court or enclosure adjacent to a building, which usually provides amenities such as gardens, planters, seating, or art.

Created wetland. Wetlands developed in an area previously identified as a non-wetland to replace or mitigate wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.

Crown cover. The area directly beneath the crown and within the drip line of a tree or shrub. The crown consists of the above ground branches, stems, and leaves.

Curb cut. A driveway opening delineated by a concrete apron along a street.

Dangerous tree. A tree which, due to its location or condition, presents a clear public safety hazard or an imminent danger of property damage, where such hazard or danger cannot reasonably be alleviated by treatment, pruning or other means.

Daycare facility/child care center/family child care. Facilities that provide care and supervision of minor children for periods of less than twenty-four (24) hours. Examples include daycare centers, nursery schools, preschools and before-and-after school care programs. Family child care providers provide care for not more than twelve (12) children in a home. See ORS 657A for certification requirements.

Days. Calendar days, unless specifically stated as working days. Working days include Monday through Friday, excluding holidays.

Debris. For the purposes of Chapter 16.34, discarded manmade objects that would not occur in an undeveloped stream corridor or wetland. "Debris" includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this chapter, or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into protected water features.

Dedication. The designation of land by its owner for any public use as shown on a subdivision plat or deed. The term may also be used for dedications to a private homeowners' association.

Delineation. In reference to natural resources, an analysis of a resource by a qualified professional that determines its boundary according to an approved methodology.

Department of Environmental Quality (DEQ) water quality standards. The numerical criteria or narrative condition needed in order to protect an identified beneficial use.

Design professional. A person with at least a Masters degree in architecture or urban design with five years of professional experience.

Design flood elevation. The elevation of the one hundred (100) year storm as defined in FEMA Flood Insurance Studies or, in areas without FEMA floodplains, the elevation of the twenty-five (25) year storm, or the edge of mapped flood prone soils or similar methodologies.

Design storm. The storm level which has been designated by the City as being the base storm for all computations and calculations.

Design storm frequency. The average period of time in years that the design storm may be expected to occur once, with the probability being the same for each year that such storm will occur in any year of the frequency interval.

Develop. To construct or alter a structure or to make a physical change to the land including excavations and fills.

Developed land. A parcel or parcels of land developed to the extent permitted by the current development regulations or minimum density requirements, if applicable.

Developed areas not providing vegetative cover. Areas that lack sufficient vegetative cover to meet one-acre mapping units of any other type of vegetative cover.

Developed flood area. A flood area (1) upon which a building or other structure has been located, or (2) that is an uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as "Grasscrete") that is able to withstand vehicular traffic or other heavy-impact uses; provided, however, that graveled areas shall not be considered developed flood areas.

Development. Generally, all improvements on a site, including buildings, other structures, parking and loading areas, landscaping, impervious surface areas, and areas devoted to exterior display, storage, or activities. Development includes improved open areas such as plazas and walkways, but does not include natural geologic forms or unimproved land. In addition, development means any manmade change defined as mining, dredging, paving, filling or grading in amounts greater than ten (10) cubic yards on any lot or excavation, or any other activity that results in the removal of more than either: ten (10) percent of the vegetation in the water quality resource area or twenty thousand (20,000) square feet of the vegetation in the Habitat Conservation Area on a lot or parcel. When individual trees are removed, the area contained within the tree's dripline shall be the basis for calculating the square footage of vegetation removed. Development does not include the following: (1) Stream enhancement or restoration projects approved by cities and counties; (2) Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of this title; and (3) Construction on lots in subdivisions meeting the criteria of ORS 92.040(2)(l995). See also "exterior improvements."

Development agreement. An agreement between the City and a property owner related to a specific development proposal in which the property owner and City agree in writing to on-site and off-site public or private improvements related to the subject development proposal, pursuant to ORS 94.504.

Development district. The specific designations applied to all land throughout the entire City which serves to indicate the potential density of development.

Development site. The development site is either or both of the following:

1. A lot of record existing on the effective date of the ordinance codified in this title; or

2. A tract of land either unsubdivided or consisting of two or more contiguous lots of record which, on the effective date of the ordinance codified in this title, was in single or common ownership.

Disabled Person. For the purposes of this Code, a disabled person is a person who has a condition of physical or mental disability which substantially limits one or more major life activities as stated in Section 504 of the Federal Rehabilitation Act of 1973 and state law.

Disabled person day care facility. Facilities that provide care and supervision of disabled persons for periods of less than twenty-four (24) hours.

Discontinued use. A use that physically left the land it was on, a permitted use that ceased, or a use terminated at the end of a lease or contract. See Chapter 16.72, Nonconforming Uses and Developments. A use is considered temporarily discontinued during the first two years after it ceases, after which it is considered permanently discontinued.

Discretionary. A permit action or decision that involves substantial judgment or discretion.

Display surface area. The total area of a sign that is available for displaying advertising or an informational message, subject to the provisions of Chapter 16.45.

Distribution center. An establishment engaged in receiving, storing and distributing goods, products, cargo, and materials, including transshipment by rail, air, or motor vehicle.

District, land use. As used in this code, a land use district is the same as a zoning district or zone.

District, lighting. Clackamas County Service District No. 5 or its successor.

Disturb. Manmade changes to the existing physical status of the land, which are made in connection with development. The following uses are excluded from the definition:

1. Enhancement or restoration of the water quality resource area;

2. Planting native cover identified in the Native Plants section of the Happy Valley Plant List (Appendix A).

Disturbance area. An area that contains all temporary and permanent development, exterior improvements, and staging and storage areas on the site, both existing and proposed. Vegetation planted for resource enhancement and agricultural and pasture land is not included.

Division of State Lands Wetland Determinations. As defined in OAR 141-86-200 (1997) (definitions for Local Wetland Inventory Standards and Guidelines), "wetland determination" means identifying an area as wetland or non-wetland.

Drainage area. The watershed (acreage) contributing surface water runoff to and including the subject property.

Drainage plan. A plan for receiving, handling, and transporting surface water within and releasing the flow of water from the subject property.

Drainageway. Generally, an open linear depression, whether constructed or natural, that functions for the collection and drainage of surface water. It may be permanently or temporarily inundated.

1. Major drainageway. Drainageways which, for the purpose of Chapter 16.51, are the primary water-carrying routes within the City. The major drainageways shall include Mt. Scott Creek and the natural drainageway that is tributary to Mt. Scott Creek, located immediately to the west of Mt. Scott Blvd.

2. Minor drainageway. Drainageways which are secondary water-carrying routes within the City and shall include all other natural drainageways as indicated on the current Happy Valley drainage study.

Drip-line. Imaginary line around a tree or shrub at a distance from the trunk equivalent to the canopy (leaf and branch) spread.

Drive aisle. An internal vehicular drive within an, institutional, multifamily residential, commercial or industrial complex parking lot, typically bordered by parking spaces.

Drive-through/drive-up facility. A facility or structure that is designed to allow drivers to remain in their vehicles before and during an activity on the site. Drive-through/drive-up facilities also include facilities designed for the rapid servicing of vehicles, where the drivers may or may not remain in their vehicles, but where the drivers usually either perform the service for themselves, or wait on the site for the service to be rendered. Drive-through facilities may serve the primary use of the site or may serve accessory uses. Examples are drive-up windows; automatic teller machines; coffee kiosks and similar vendors; menu boards; order boards or boxes; gas pump islands; car wash facilities; auto service facilities, such as air compressor, water, and windshield washing stations; quick-lube or quick-oil change facilities; and drive-in theaters.

Driveway. There are two types of driveways:

1. The area that provides vehicular access to a site from a street. A driveway is the same width as the curb cut excluding any aprons or extensions of the curb cut. This type of driveway begins at the street and extends into the site. A driveway does not include parking, maneuvering, or circulation areas in parking areas, such as aisles; and

2. The area that provides vehicular circulation between two or more noncontiguous parking areas. A driveway does not include maneuvering or circulation areas within the interior of a parking area. Where required by Code for fire safety, a driveway must be used exclusively for circulation, with no abutting parking spaces.

Driveway apron/approach. The edge of a driveway where it abuts a public way; usually constructed of concrete.

Drought-tolerant/drought-resistant plants or xeriscaping. As listed and described in the Sunset Western Garden Book or similar information source for the area in which the development site is located (latest edition).

Dwelling (dwelling unit). A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Dwelling, attached duplex. A duplex located on its own lot that shares one or more common or abutting walls with another duplex (for a total of four dwelling units). The common or abutting wall must be shared for at least fifty (50) percent of the length of the side of the dwelling.

Dwelling, single-family attached (townhouse or rowhouse). A dwelling, located on its own lot excluding an accessory dwelling unit, which shares one or more common or abutting walls with one or more other dwellings on another lot. A single-family attached dwelling does not share common floors or ceiling with other dwellings.

Dwelling, single-family detached (house). A detached dwelling on a single lot excluding an accessory dwelling unit.

Dwelling, two-family (duplex). A building containing two dwelling unit on one lot. The units must share a common wall or common floor/ceiling and are not accessory dwelling units.

Dwelling, three-family (triplex). A building containing three dwelling units on a single lot. The units must share a common wall or common floor/ceiling and are not accessory dwelling units.

Dwelling, four-family (quadplex). A building containing four dwelling units on a single lot. The units must share a common wall or common floor/ceiling and are not accessory dwelling units.

Dwelling, cottage cluster. A grouping of no less than four detached buildings per gross acre on a lot designed or used exclusively for the occupancy of separate families living independently of each other in each detached building, or "cottage", and having separate housekeeping facilities for each family. The cottages are generally oriented around a common courtyard and comply with the LDC 16.44.130.

Dwelling, multiple-family (multifamily). A building on a single lot designed and used for occupancy by five or more families, all living independently of each other, and having separate housekeeping facilities for each family. Multifamily does not include cottage cluster housing. Multifamily dwellings include condominiums and apartment units without regard to ownership status.

Dwelling, multifamily—Senior housing. Housing designated and/or managed for persons over a specified age. Specific age restrictions vary. Includes independent care and assisted care facilities for the elderly, but excludes nursing homes, convalescent care and institutional type living arrangements unless it

is part of a congregate/assisted-living complex, and the congregate care portion does not make up more than twenty-five (25) percent of the total gross area of the facility. Senior housing can consist of a combination of apartments, rowhouses and other types of housing units. Units may be connected to each other by hallways or breezeways.

Easement. A grant of rights by a property owner that allows others to use the owner's land for a specific purpose, such as access, or to locate utilities. Recorded and on record at Clackamas County.

Eave. Projecting overhang at the lower border of a roof and extending from a primary wall or support.

Ecological functions. The primary biological and hydrologic characteristics of healthy fish and wildlife habitat. Riparian ecological functions include microclimate and shade, streamflow moderation and water storage, bank stabilization and sediment/pollution control, sources of large woody debris and natural channel dynamics, and organic material sources. Upland wildlife ecological functions include size of habitat area, amount of habitat with interior conditions, connectivity of habitat to water resources, connectivity to other habitat areas, and presence of unique habitat types.

Effective impervious area. A subset of total impervious area that is hydrologically connected via sheet flow or discrete conveyance to a drainage system or receiving body of water.

Elevation, architectural. Scaled drawing of the outside wall of a building or structure, from grade to roof ridgeline, typically specifying materials, color, and dimensions.

Emergency. Any manmade or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

Energy dissipators. For the purposes of Chapter 16.51, natural or artificial objects, structures or systems which serve to reduce flow velocity or volume in any drainage or runoff area in order to prevent erosion, channelization or the increase of flow beyond desired levels.

Engineer. A registered professional engineer licensed by the State of Oregon.

Engineering geologist. A registered professional engineering geologist licensed by the State of Oregon.

Enhancement. For the purposes of Chapter 16.34, the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.

Equipment enclosure. In reference to wireless communications facilities, a small structure, shelter, cabinet, box or vault designed for and used to house and protect the electronic equipment necessary and/or desirable for processing wireless communications signals and data, including any provisions for air conditioning, ventilation or auxiliary electricity generators.

Erect or erected. To construct, build, assemble, alter, place, affix, attach, create, recreate, paint, draw or in any way bring into being or establish.

Erosion. The movement of soil particles resulting from actions of water or wind.

Evidence. Application materials, plans, data, testimony and other factual information used to demonstrate compliance or noncompliance with a code standard or criterion.

Excavating or filling. The removal, placement, or replacement of earth, concrete, asphalt, and similar nondecomposable materials whether permanent or temporary in nature. Excavating or filling does not include the movement of earth or placement of gravel, asphalt, or other paving materials that is done in conjunction with road improvements. It does not include the excavation of mineral or aggregate resources. Excavating or filling includes the terms grading, preloading, surcharging, and stockpiling.

Expressway. Expressways are complete routes or segments of multi-lane highways and planned multi-lane highways that provide for safe and efficient high speed and high volume traffic movements. The primary function is to provide for interurban travel and connections to high growth and existing and planned employment areas with minimal interruptions. A secondary function is to provide for long distance interurban travel in metropolitan areas. Speeds are moderate to high. Private access is discouraged and there is either a long-range plan or review process to identify alternative access. Public road connections are highly controlled and parking is prohibited. Pedestrian facilities and bikeways may be separated from the roadway.

Exterior display. Exterior display includes the outdoor display of products, vehicles, equipment, and machinery for sale or lease. Exterior display is an outdoor showroom for customers to examine and compare products. There is variety or a distinction among the goods on display, through different products, brands, or models. The display area does not have to be visible to the street. Exterior display does not include goods that are being stored or parked outside, if there is no variety or distinction among the goods, and the goods are not examined and compared by customers. It does not include damaged or inoperable vehicles, vehicles or equipment being serviced, bulk goods and materials, and other similar products. Exterior display does not include car and boat sales and leasing when such vehicles are not accessible to customers to inspect and compare; this situation is considered exterior storage. Examples of uses that often have exterior display are car and boat sales and leasing, and plant nurseries. See also "exterior work activities" and "exterior storage."

Exterior alteration. An alteration that is outside any buildings.

Exterior storage. Exterior storage includes the outdoor storage of goods that generally have little or no differentiation by type or model. The goods may be for sale or lease, but if so, they are the type that customers generally do not inspect and compare. Exterior storage also includes the outdoor storage of goods for sale, lease or rent that may be differentiated by type or model, but that are not accessible for customers to inspect or compare. Exterior storage includes the storage of raw or finished goods (packaged or bulk), including gases, oil, chemicals, gravel; building materials, packing materials; salvage goods; machinery, tools, and equipment; vehicles that are for sale, lease or rent, which are not accessible to the customer to inspect or compare; vehicles that have been unloaded at port facilities and are waiting transport to off-site locations; vehicles that have been towed and are being kept in an impound lot; and other similar items. The storage of recreational vehicles outdoors is also considered exterior storage. Damaged or inoperable vehicles, or vehicles that have missing parts, which are kept outside are also included as exterior storage. Examples of uses that often have exterior storage are lumber yards, wrecking yards, tool and equipment rental, bark chip and gravel sales, car dealerships or car rental establishments, and port facilities. See also "exterior display" and "exterior work activities."

Exterior work activities. Exterior work activities include the outdoor processing, assembly, or fabrication of goods; the maintenance, repair, and salvage of vehicles and equipment; and other similar activities that generally have an industrial orientation. Exterior work activities do not include normal pick-up and deliveries to a site, parking, excavation and fills, exterior eating areas, outdoor recreation, or outdoor markets. See "exterior display" and "exterior storage."

Facilities, wireless communication. All equipment and property associated with the construction of antenna support structures, antenna arrays and antennas, including but not limited to cables, wires, conduits, ducts, pedestals, antennas of all descriptions, electronic and mechanical equipment and devices, and buildings and similar structures.

Family. See "household."

Farming or farm use. As used in this Code, "agriculture" is the same as "farm use." (See ORS 215.203(2)(a).) Includes utilization of land to raise, harvest, or sell crops; feed, breed, manage, and sell livestock, poultry, fur-bearing animals, honeybees, or their produce; dairy and sell dairy products; or any other agricultural or horticultural use, animal husbandry, timber agricultural use, or combination thereof. Farm uses include preparation or processing and storage of products raised on such land, but do not include construction or use of dwellings and other buildings customarily provided in conjunction with farm uses.

Fence and fencing. Any barrier or section thereof, other than a wall, designed to delimit a boundary or provide a visual screen.

Fence, sight-obscuring. A structure, consisting of wood, metal or masonry or an evergreen hedge or other evergreen planting, built for the purpose of separating properties and/or uses and arranged in such a way as to obstruct normal human vision.

Fill. Any material such as, but not limited to, earth, sand, gravel, soil, rock, and similar non-decomposable material that is used for the purposes of development or redevelopment. "Filling" is the placement or replacement of these materials.

Final plat. The diagrams, drawings, and other writing containing all the descriptions, locations, dedications, provisions and information concerning a land division, approved and prepared for filing or recording with County clerk and containing those elements and requirements as set forth in this title, and as required by state statute.

Fire apparatus lane or fire lane. Unobstructed area or driveway meeting Uniform Fire Code requirements; typically may not be used for parking or loading area.

Flood or flooding. A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; or, mudslides (i.e. mudflows) which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current. In addition, flooding means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Insurance Rate Map (FIRM). An official map of a community on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community.

Floodplain or flood-prone area. The land area identified and designated by the United States Army Corps of Engineers, the Oregon Division of State Lands, FEMA or the City as susceptible to being inundated by water from any source (see "flood or flooding").

Floodway. The active flowing channel during a flood, as designated on flood maps for the City; the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

Floodway fringe. The area of the floodplain, lying outside the floodway, which does not contribute appreciably to the passage of floodwater, but serves as a retention area.

Floor area. The total floor area of a building, both above and below ground with a clear ceiling height of at least seven feet. Floor area is measured from the interior walls of a building or structure and does not include the following:

1. Roof area;
2. Roof top mechanical equipment;
3. Roofed porches, exterior balconies, or other similar areas, unless they are enclosed by walls that are more than forty-two (42) inches in height, for fifty (50) percent or more of their perimeter; and
4. Vents, shafts, courtyards, stairwells, elevator shafts, rooms designed and used for the purpose of storage and operations of maintenance equipment and enclosed or covered parking areas.

Floor area ratio. The ratio of the total amount of enclosed gross floor area within a structure to the amount of buildable acreage pursuant to Section 16.63.020(F), Density Calculations. For example, a single-story building constructed on one-quarter of the net developable site would have a floor area ratio of 0.25. If a second story were added, the floor area ratio would increase to 0.50, etc. For purposes of calculation, both floor area and net site area shall be converted to square feet. Total gross floor area is measured from the exterior faces of a building or structure, and does not include basement or semi-subterranean areas used for storage or parking.

Foot-candle. A unit of illumination (light standards), equal to one lumen per square foot, or the amount of light from a source of one candela directly thrown on a square foot of surface at a distance of one foot.

Forest canopy. Areas that are part of a contiguous grove of trees of one acre or larger in area with approximately sixty (60) percent or greater crown closure, irrespective of whether the entire grove is within two hundred (200) feet of the relevant water feature.

Front of structure. The portion of building parallel or adjacent to the front property line, or the side on which the front door of the building is located.

Front property line. Any boundary line separating the lot from a public or private road.

Frontage. Generally, the dimension of a property line abutting a public or private street. However, for the purposes of Section 16.42.070, "frontage" specifically means the length of property abutting a street benefited by street lighting.

Frontage street or road. A minor street that parallels an arterial street or highway in order to provide access to abutting properties and minimize direct access onto the arterial or highway.

Functional classification. The classification given to streets by the road authority (e. g., "local/collector/arterial"). See Chapter 16.41 and the City's Transportation System Plan for street standards.

Future division plan or future development plan. A document that shows lot, tract and right-of-way boundaries for all potential future phases of a land division. The plan is not binding on the City or the applicant. The purpose of the plan is to document that the design of the first phase of the plan does not preclude future phases from meeting City standards.

Garage. A covered structure designed to provide shelter for vehicles, and which is accessory to a use in these structure types: houses, attached houses, duplexes, mobile homes, or houseboats. Carports are considered garages. Floor area adjacent to the space designed to provide shelter for vehicles, if not entirely separated from the garage area by floor-to-ceiling walls, is considered part of the garage. A garage may be attached to or detached from another structure. See also "structured parking."

Glare. The effect of brightness or brightness difference within the visual field sufficiently high to cause annoyance, discomfort or loss in visual performance.

Grade, finished. The elevation or surface of the earth after all earthwork has been completed as approved on the final grading plan for the subject site (also finish grade). In the calculating of building height, finished grade is measured at the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and property line, or when the property line is greater than five feet from the building, between the building and a line five feet from the building. The City Engineer shall have authority to further define finished grade when unusual conditions pertaining to structures and terrain exist.

Grade, natural. The elevation of the ground surface in its natural state, before manmade alterations.

Grading. All cuts, fills, embankments, stockpile areas, and equipment maneuvering areas associated with development.

Ground cover. Any living plant approved as part of a landscape plan that provides under story cover, shade of the ground, or cover for bare ground. See Chapter 16.42, Landscaping, Street Trees, Fences and Walls.

Habitat Conservation Area (HCA). An area identified on the Metro Habitat Conservation Areas Map and subject to specific development standards.

Habitat-friendly development. A method of developing property that has less detrimental impact on fish and wildlife habitat than does traditional development methods. Examples include clustering development to avoid habitat, using alternative materials and designs such as pier, post, or piling foundations designed to minimize tree root disturbance, managing stormwater on-site to help filter rainwater and recharge groundwater sources, collecting rooftop water in rain barrels for reuse in site landscaping and gardening, and reducing the amount of effective impervious surface created by development.

Hardscape. Hard-surfaced areas. Such areas include specially treated or textured concrete designed as a plaza, courtyard or building entrance and contain pedestrian sensitive amenities such as benches, drinking fountains, planters, trees in grated wells, street furniture, lighting, public art, water features or other design features integrated into the overall design of a building or portion of a site. Hardscaped areas may include canopies and overhangs to protect public activities from wet weather.

Hazardous substances. Any substance, material, or waste listed below:

1. Nuclear or radioactive materials or waste;

2. Chemicals Subject to Reporting Under Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986, published July, 1987, U. S. Environmental Protection Agency; and

3. Hazardous Materials Table, in the Code of Federal Regulations (CFR), Title 49, Part 172.101.

Helicopter landing pad (helipad). A helipad is a relatively flat land area or landing platform for helicopters constructed of concrete or fabricated hard surface, marked with a circle and/or the letter "H" so as to be visible from the air.

Heliport. A heliport is a small airport suitable only for helicopters that contains one or more helipads and may have limited facilities such as fuel, equipment storage, lighting, a windsock, or a hangar.

Home occupation, home occupation site. A business activity that is carried out on the same site as a dwelling unit, and which is accessory to the residential use on the site, subject to the provisions of Chapter 16.22 (Residential Land Use Districts) and Section 16.69.020 (Home Occupation Permits).

Hotel/motel. A building or portion thereof designed and used for occupancy of transient individuals lodged with or without meals. (See ORS 446.310.)

House. See "Dwelling, single-family detached." A detached dwelling unit located on its own lot.

Household. One or more persons related by blood, marriage, civil union, legal adoption or guardianship, plus not more than five additional persons, who live together in one dwelling unit; one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than five additional persons, who live together in one dwelling unit; or seven or more persons who live together in one dwelling unit as a single, nonprofit housekeeping unit whose relationship is of a permanent and distinct domestic character, with a demonstrable and recognizable bond where each party is responsible for the basic material needs of the other and all are living as a single housekeeping unit.

Identified natural features (e.g., wetlands or streams). Natural features that are identified in the National Wetlands Inventory, Local Wetlands Inventory, and other references used by the City or natural resource regulatory agency, as being significant and in need of protection.

Impervious surface. That surface area which prevents or slows the entry of water into the soil mantle and/or causes water to runoff the surface in greater quantities or at an increased rate. Impervious surfaces may include, but are not limited to, rooftops, concrete or asphalt paving, walkways, patios, driveways, parking lots, oiled macadam, gravel or other surfaces which similarly resist infiltration or absorption of moisture.

Incidental and subordinate to. Secondary to, and less apparent than, the primary use or other portion of the development.

Infill. The development or division of vacant, bypassed lands located in an area that is mainly developed.

Interior alteration. An alteration that is inside any buildings.

Invasive non-native or noxious vegetation. Plant species that have been introduced and due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities (see definition for "nuisance/non-native invasive plants").

Junk yard. (1) Any property or establishment on which one or more persons are engaged in breaking up, dismantling, sorting, storing, distributing, buying, or selling scrap or waste materials. (2)

Any establishment or place of business on which one or more inoperable motor vehicles or an equivalent volume of waste or refuse are maintained, stored, bought, or sold. Includes wrecking yards, automobile grave yards, garbage dumps, and scrap metal processing facilities.

Kennel. Any location where five or more dogs or cats aged six months or older are boarded or bred. The sale of these animals may be a part of the kennel use. Establishments where animals are offered for sale as the primary use, such as pet stores, are not classified as kennels.

Land Development Code or LDC. Happy Valley's Land Development Code, as amended.

Land division. The process of dividing land to create parcels or lots. See Chapter 16.63, Land Divisions and Property Line Adjustments.

Land use. The activity or activities that occur on a piece of land. Activities may be individually identified as primary or accessory uses.

Land use approval. A land use decision for approval or approval with conditions. It includes any time limits or other restrictions that may apply to the land use decision.

Land use review. An application for land use approval pursuant to this title, or the review of such application.

Landing (stairs). A level part of a staircase, usually at the end of a flight of stairs.

Landscaping. Any combination of living plants such as trees, shrubs, plants, vegetative groundcover or turf grasses, and may include structural features such as fences, benches, works of art, reflective pools, fountains or the like. Also includes irrigation systems, and re-vegetation or the preservation, protection and replacement of trees.

Lane, mid-block. A narrow, limited use roadway facility, similar to an alley in design, usually used to access a limited number of dwelling units.

Legislative. A legislative action or decision is the making of law, as opposed to the application of existing law to a particular use (e.g., adoption of, or amendment to, a Comprehensive Plan or development regulation). See also Section 16.61.050 (Type IV Procedure).

Level of service ("LOS"). A quantitative standard for transportation facilities describing operational conditions. Level of service may be described for intersections (signalized or unsignalized) or street segments (between signalized intersections).

Limbing. The removal of a branch of a tree back to the main trunk of such tree.

Livestock. Domestic animal types customarily raised or kept on farms. See "agriculture."

Living area. The habitable floor area of a residential structure conforming to applicable building codes; typically does not include garage area, and attic and basement areas with substandard ceiling height or substandard egress.

Loading area. The area available for the maneuvering and standing of vehicles engaged in delivering and loading goods, freight, or other articles. See also Chapter 16.43, Parking and Loading.

Local Improvement District ("LID"). A small public district formed for the purpose of carrying out local improvements (paving of streets, construction of storm sewers, development of a park, etc.). Property owners within the LID are assessed for the cost of the improvements in accordance with ORS 223.387-223.485.

Lot. The State of Oregon defines lot as a legally defined piece of land other than a tract that is the result of a subdivision. For purposes of Title 16, the definitions for "lot" apply to the State definition of both lot (result of subdividing) and parcel (result of partitioning). See also "ownership," "parcel" and "site."

Lot area. The total surface area (measured horizontally) within the boundary lines of a lot exclusive of streets or easements of access to other property.

Lot, corner. See "lot types."

Lot coverage. The portion of a lot that is covered by buildings, and decks, stairways and entry bridges that are more than thirty (30) inches above grade. Eaves are not included in building coverage.

Lot depth. The distance of a line measured from the midpoint of the front lot line to the midpoint of the rear lot line. For the purposes of measuring lot depth of corner lots, the longest lot line may be assumed to be a side lot line.

Lot frontage. See "frontage."

Lot line adjustment. The relocation of a single common property line between two abutting properties, in conformance with ORS 92.010(11).

Lot line, front. Front lot line is a lot line, or segment of a lot line, that abuts a street. On a corner lot, the front lot line is the shortest of the lot lines that abut a street. If two or more street lot lines are of equal length, then the applicant or property owner can choose which lot line is to be the front lot line. However, on a through lot, the applicant or property owner can choose which lot line is to be the front lot line and which lot line is to be the rear lot line, regardless of whether the street lot lines are of equal or unequal length. On a flag lot, the applicant or property owner can choose which lot line is to be the front lot line, so long as it is one of the lot lines that makes up the flag portion of the lot, and the rear lot line is the property line most distant from, and opposite from, the chosen front lot line.

Lot line, rear. The property line most distant from, and opposite from, the front lot line. A triangular lot has two side lot lines but no rear lot line. For other irregularly shaped lots, the rear lot line is all lot lines that are most nearly opposite the front lot line.

Lot line, side. A lot line that connects front and rear lot lines. On a corner lot, the longer lot line that abuts a street is a side lot line.

Lot line, street. A lot line, or segment of a lot line, that abuts a street. Street lot line does not include lot lines that abut an alley. On a corner lot, there are two (or more) street lot lines. Street lot line can include front lot lines and side lot lines.

Lot of record.

1. "Lot of record" means an area of land created prior to the effective date of the ordinance codified in this title as shown as a lot on a final plat of a recorded subdivision; or

2. An area of land described by metes and bounds in a deed or contract recorded in the office of the County Clerk prior to the effective date of the ordinance codified in this title; the creation of which was not in violation of any state statute or City ordinance.

Lot types.

1. **Corner lot.** A lot bounded entirely by streets, or a lot which adjoins the point of intersection of two or more streets and which the interior angle formed by the extensions of the street lines in the direction which they take at their intersections with lot lines other than street lines, forms an angle of one hundred thirty-five (135) degrees or less. In the event that any

street line is a curve at its point of intersection with a lot line other than street line, the tangent to the curve at that point shall be considered the direction of the street line.

2. **Interior lot.** A lot other than a corner lot with frontage only on one street.

3. **Through lot.** A lot other than a corner lot with frontage on more than one street. Through lots with frontage on two streets may be referred to as "double-frontage" lots.

4. **Flag lot.** A lot with two distinct parts:

   a. The flag, which is the only building site and is located behind another lot; and

   b. The pole, which connects the flag to the street, provides the only street frontage for the lot, and at any point is less than the minimum lot width for the zone.

5. **Cul-de-sac lot.** A lot which is basically triangular in shape and has a front lot line contiguous with the outer radius of a curve. Such lots shall have a minimum frontage as specified in the particular district. The calculation of lot width shall be made by measuring width at the midpoints of side lot lines.

6. **Lot, double-frontage.** A lot that has frontage on two parallel or approximately parallel streets.

Lot width. The distance of a line measured between the foremost points of the side lot lines. For the purposes of width of lot measurements on corner lots, the longest front lot line may be assumed to be a side lot line.

Low impact development. Minimizing or eliminating pollutants in stormwater through natural processes and maintaining pre-development hydrologic characteristics, such as flow patterns, surface retention, and recharge rates.

Low structure vegetation. Areas that are part of a contiguous area one acre or larger in size comprised of grass, meadow, crop-lands, or areas of open soils located within three hundred (300) feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, crop-lands, orchards, Christmas tree farms, holly farms, or areas of open soils located within three hundred (300) feet of a surface stream and together form an area of one acre in size or larger).

Luminaire. A complete lighting device consisting of a light source together with its direct appurtenances, such as globe, reflector, refractor, housing and such support as is integral with the housing. The pole, post or bracket is not considered a part of the luminaire.

Main/primary building entrance. A main entrance is the entrance to a building that most pedestrians are expected to use. Generally, each building has one main entrance. Main entrances are the widest entrance of those provided for use by pedestrians. In multi-tenant buildings, main entrances open directly into the building's lobby or principal interior ground level circulation space. When a multi-tenant building does not have a lobby or common interior circulation space, each tenant's outside entrance is a main entrance. In single-tenant buildings, main entrances open directly into lobby, reception, or sales areas.

Maintenance. For the purposes of Section 16.44.020, emergency or routine repairs or replacement of transmitters, antennas, or other components of previously approved wireless communication facilities which do not create a substantial change in the physical dimensions.

Major transit stop. Transit centers and major bus stops that are identified as part of the regional transit system, as depicted in the Happy Valley Transportation System Plan (TSP) Transit Plan.

Maneuvering area/aisle. The driving area in a parking lot where motor vehicles are able to turn around and access parking or loading spaces.

Manufactured dwelling park/manufactured home park. Any place where four or more manufactured homes are located within five hundred (500) feet of one another on a lot, tract or parcel of land under the same ownership, the primary purpose of which is to rent or lease space or keep space for rent or lease to any person for a charge or fee paid or to be paid for the rental or lease or use of facilities or to offer space free in connection with securing the trade or patronage of such person. "Manufactured dwelling park" does not include a lot or lots located within an approved subdivision being rented or leased for occupancy by no more than one manufactured dwelling per lot. See also ORS Chapter 446.

Manufactured home. A dwelling unit which is fabricated in one or more sections at a location other than the home site by assembly line-type production techniques or by other construction methods unique to an off-site manufacturing process. A manufactured home is a mobile home constructed in accordance with Federal manufactured housing construction and safety standards (HUD Code) in effect after June 15, 1976. NOTE: A mobile home that was not constructed in accordance with Federal manufactured housing construction and safety standards (HUD Code), in effect after June 15, 1976 is a "residential trailer." (See definition of "mobile home" and Chapter 16.44, Special Standards for Certain Uses.)

Manufactured home accessory building or structure. Any awning, portable, demountable or permanent cabana, carport, porch, skirting or steps established for use of the occupant of the manufactured home and which are designed or intended to be attached to and which depend, in whole or in part, upon the manufactured home for structural support.

Marijuana. The plant Cannabis family Cannabaceae, any part of the plant Cannabis family Cannabaceae, and the seeds of the plant Cannabis family Cannabaceae. Marijuana does not include industrial hemp as defined in Oregon Revised Statutes 571.300.

Marijuana items. Marijuana, cannabinoid products, cannabinoid concentrates, and cannabinoid extracts.

Marijuana processing. The processing, compounding, or conversion of marijuana into cannabinoid products, cannabinoid concentrates, or cannabinoid extracts, provided that the marijuana processor is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

Marijuana production. The manufacture, planting, cultivation, growing, trimming, harvesting, or drying of marijuana, provided that the marijuana producer is licensed by the Oregon Liquor Control Commission, or registered with the Oregon Health Authority and a "person designated to produce marijuana by a registry identification cardholder."

Marijuana retailing. The sale of marijuana items to a consumer, provided that the marijuana retailer is licensed by the Oregon Liquor Control Commission or registered with the Oregon Health Authority.

Marijuana wholesaling. The purchase of marijuana items for resale to a person other than a consumer, provided that the marijuana wholesaler is licensed by the Oregon Liquor Control Commission.

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

Master plan. A plan for a defined geographic area in single or multiple ownership that is consistent with the Comprehensive Plan and includes, but is not limited to, a land use plan, a circulation plan, an open space plan, a utilities plan and a program of implementation measures and other mechanisms needed

to carry out the plan. The plan shall be created through the master plan process outlined in this Land Development Code.

Medical center. An inpatient hospital and supporting emergency outpatient and related ancillary services to the sick and infirm, which is usually developed in a campus setting. Accessory uses may include diagnostic and treatment facilities; laboratories and surgical suites; kitchen/food service facilities; laundry, housekeeping and maintenance facilities; short-term lodging for patients and families; administrative offices and parking. Medical centers may also include freestanding offices for hospital-based and/or private-practice physicians and other allied health care professionals.

Middle Housing Child Lot. A unit of land created from the division of a middle housing parent lot through a middle housing land division.

Middle Housing Land Division. A partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197.758(2) and the partition or subdivision is processed in accordance with the provisions of ORS Chapter 92 and LDC 16.61.070. The lot or parcel that is the subject of the land division is referred to as the middle housing parent lot; a lot created by the division is referred to as a middle housing child lot.

Middle Housing Parent Lot. A lot or parcel that is developed, or proposed to be developed, with middle housing, and which may therefore be further divided through a middle housing land division to create middle housing child lots.

Mitigation. The reduction of adverse effects of a proposed project by considering in this order: (1) avoiding the impact all together by not taking a certain action or parts of an action; (2) minimizing impacts by limiting the degree or magnitude of the action and its implementation; (3) rectifying the impact by repairing, rehabilitating or restoring the affected environment; (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and (5) compensating for the impact by replacing or providing comparable substitute resource areas (e.g., water quality resource areas or habitat conservation areas).

Mixed use area or center. An area designed to encourage a diversity of compatible and supporting land uses which may include a mixture of residential, retail, commercial, office or other miscellaneous uses.

Mixed use building. A building supporting land uses which includes a mixture of residential, retail, commercial, office or other miscellaneous uses.

Mobile food unit. Per Oregon Administrative Rule 333-150-0000, “mobile food unit” means any vehicle that is self-propelled or that can be pulled or pushed down a sidewalk, street, highway or waterway, on which food is prepared, processed or converted or which is used in selling and dispensing food to the ultimate consumer. Also referred to as a “food cart.”

Mobile home. A dwelling unit constructed off of the site and which is not constructed to the standards of the Uniform Building Code. Mobile homes include residential trailers and manufactured homes.

Mobile home park. Two or more mobile homes that are located on a single site for thirty (30) days or more and intended for residential use. Mobile home park does not include sites where unoccupied mobile homes are offered for sale or lease. See also “recreational vehicle park.”

Mobile home space. The area occupied by a mobile home and its accessory uses and structures in a mobile home park.

Modular housing. See "prefabricated house or assembly."

Model home. A structure constructed as and intended to be occupied as a residential dwelling unit that is temporarily used as an example of the type of residential dwelling units to be constructed in a subdivision, is open to the public for that purpose and may include a real estate sales office. A model home is a temporary nonresidential use and may not be used as a real estate sales office except in conjunction with the sale of lots and homes in the residential subdivision in which it is located.

Modification. For the purposes of Section 16.44.020, a change or alteration to an existing wireless communications facility or collocation on a base station, including, but not limited to, the addition, removal and/or replacement of antennas and/or auxiliary support equipment.

Motor home. Motor home includes motorized vehicles designed for human occupancy on an intermittent basis. A camper is considered a motor home when it is on the back of a pick-up or truck. Motor homes are regulated as trucks unless the regulations specifically indicate otherwise. See also "truck."

Motor vehicle. Vehicles that have their own motive power and that are used for the transportation of people or goods on streets. Motor vehicle includes motorcycles, passenger vehicles, trucks, and recreational vehicles, except all terrain vehicles, off-road vehicles, snow mobiles, and similar vehicles that are not allowed on streets.

Mounting height. For the purposes of Section 16.42.070, the vertical distance between the roadway surface and the center of the apparent light source of the luminaire.

Multi-use path. An eight to ten (10) foot wide improved, all-weather surface pathway that is utilized for pedestrian and bicycle traffic. Multi-use paths are typically located within public easements or rights-of-way, and may include the installation of removable bollards to prevent use by unauthorized motor vehicles. Private multi-use paths are required to be maintained by a homeowner's association or equivalent maintenance organization.

Native vegetation. Any vegetation native to the Portland metropolitan area, listed on the Native Plants section of the City of Happy Valley Plant List (Appendix A).

Natural area. An area of and improved, preserved and maintained as a native ecosystem for the benefit of natural systems and fish and wildlife habitat.

Natural hazard. Natural areas that can cause dangerous or difficult development situations. For example, natural hazard areas include steep slopes, unstable soils, and areas prone to landslides, floodways and floodplains.

Natural materials. Wood, stone, brick and rock or any combination thereof.

Natural resource. Those significant natural riparian, wildlife, and wetland resources and water quality resources that are protected by the Natural Resources Overlay Zone (see Chapter 16.34).

Neighborhood. A residential area usually having distinguishing character or geography.

Neighborhood character. Those unique attributes including, but not limited to, architecture, historical and cultural features, development patterns, landscape, hardscape and the size, scale and spacing of buildings and other structures that define a neighborhood's identity.

Net acre. One acre of developable land, as calculated pursuant to Section 16.63.020(F), density calculations.

Nonconforming development. An element of a development, such as a setback, height, or parking area, that was created in conformance with development regulations but which subsequently, due to a

change in the zone or zoning regulations, is no longer in conformance with the current applicable development standards. See Chapter 16.72, Nonconforming Uses and Developments.

Nonconforming residential density. A residential use that is an allowed use in the zone and that was constructed at a lawful density, but which subsequently, due to a change in the zone or zoning regulations, now has greater density than is allowed in the zone. See Chapter 16.72 Nonconforming Uses and Developments.

Nonconforming situation. A Nonconforming Residential Density, Nonconforming Development, or Nonconforming Use. A situation may be nonconforming in more than one aspect. For example, a site may contain a nonconforming use and also have some nonconforming development. See also "nonconforming residential density," "nonconforming development," and "nonconforming use." See Chapter 16.72, Nonconforming Uses and Developments.

Nonconforming Use. A use that was allowed by right when established or a use that obtained a required land use approval when established, but that subsequently, due to a change in the zone or zoning regulations, the use or the amount of floor area of the use is now prohibited in the zone. See Chapter 16.72, Nonconforming Uses and Developments.

Nuisance/non-native invasive plants. Plants which are listed in the Nuisance and Prohibited Plants sections of the Happy Valley Plant List (Appendix A).

ODFW construction standards. Oregon Department of Fish and Wildlife construction guidelines for building roads, bridges and culverts or any transportation structure within a waterway.

Off-site. Any area not located within the property to be developed, whether or not in the common ownership of the applicant for development approval.

Off-street parking. All off-street areas designed, used, required or intended to be used for the parking of motor vehicles. See Chapter 16.43 for parking standards.

On-street parking. Parking in the street right-of-way, typically in parking lanes or bays. Parking may be parallel or angled in relation to the edge of the right-of-way or curb. See Chapter 16.43 for parking standards.

Open space. Land that is undeveloped and that is planned to remain so. The term encompasses parks, forests and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves and parks or to those lands within a subdivision or PUD, or separate from all other properties which have been dedicated in common to the ownership within the subdivision/PUD or to the public specifically for the purpose of providing places for fish and wildlife habitat preservation, scenic and/or recreational uses.

Optimal tree protection zone. An area around a tree that must be protected to ensure that the tree is not physically damaged, and that the roots are protected.

Ordinary mean high water line. Defined in OAR 141-82-005 means the line on the bank or shore to which water ordinarily rises in season; synonymous with mean high water (ORS 274.005).

Ordinary mean low water line. Defined in OAR 141-82-005 means the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water (ORS 274.005).

Orientation. To cause to face toward a particular point of reference (e.g., "a building oriented to the street").

Original structure. For the purposes of Section 16.44.020, a lawfully placed utility structure located in the right-of-way as of the effective date of the right-of-way use agreement between the owner and the City.

Outdoor commercial use. A use supporting a commercial activity that provides goods or services, either wholesale or retail, where the amount of site area used for outdoor storage of materials or display of merchandise exceeds the total floor area of all buildings on the site. Examples of outdoor commercial uses include automobile sales or services, nurseries, lumber yards and equipment rental businesses.

Outdoor living area. An outdoor or semi-outdoor area designed to provide a more pleasant and healthful environment for the occupants of a dwelling unit and the neighborhood in which such dwelling unit is located. It includes natural ground areas, gardens, landscaped areas, balconies, porches, patios, terraces, verandas, outdoor swimming pools, play areas, tennis courts, walkways and ties. Outdoor living areas do not include accessways, parking and loading areas, strips between buildings less than ten (10) feet in width, storage areas, and other areas not usable for outdoor activities.

Overlay zone/district. Overlay zones impose and/or relax requirements of an underlying land use district, or base zone, where characteristics of the land or neighborhood, or the types of development planned for an area, require special regulations.

Owner. The owner of the title to real property or the contract purchaser of real property of record, as shown on the latest assessment records in the Office of the County Assessor. Owner also includes a deed holder or contract purchaser whose name does not appear in the latest assessment records, but who presents to the City a copy of a deed or contract of sale showing date, book, and page of recording.

Ownership. An ownership is one or more contiguous lots that are owned by the same person, partnership, association, or corporation. Ownership also includes lots that are in common ownership but are separated by a right-of-way. See also “lot” and “site.”

Parcel. A legally defined area of land created through a partition. See “lot.”

Parking area. A parking area is all the area devoted to the standing, maneuvering, and circulation of motor vehicles. Parking areas do not include driveways or areas devoted exclusively to non-passenger loading. See also “driveway,” “garage,” “structured parking,” and “vehicle areas.”

Parking lot perimeter. The boundary of a parking lot area that usually contains a landscaped buffer area.

Parking space. A permanently maintained space designed to provide standing area for a motor vehicle pursuant to the applicable parking standards (see Chapter 16.43, Parking and Loading).

Partition. To divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. (See ORS 92. 010(8).)

Passenger vehicle. A motor vehicle designed to carry ten persons or less including the driver. Passenger vehicles are passenger cars and multipurpose passenger vehicles as defined by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Chapter V, Section 571.3. See also “recreational vehicle” and “truck.”

Paved area. An uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as porous concrete or pavers) that is able to withstand vehicular traffic or other heavy-impact uses. Graveled areas are not paved areas but are typically impervious.

Peak discharge. The maximum surface water runoff rate in cubic feet per second (cfs) determined for the design storm frequency.

Pedestrian amenity(ies). Areas and objects that serve as places for public socializing and enjoyment and are usually closed to motorized vehicles. Examples include plazas, building frontage areas (extra-wide sidewalks), street furnishings (e.g., benches, drinking fountains, bus waiting shelters), and pocket parks adjacent to a street, and similar areas and objects. Sidewalks designed to meet the minimum sidewalk width standards under Chapter 16.41 are not "amenities" for the purpose of this title.

Pedestrian path. A path that is utilized primarily for pedestrian access. (See Section 16.50.030(B)(8)(d).)

Pennant. A sign that is a triangular flag which is tapered to a point or swallowtail.

Perennial streams. All primary and secondary perennial waterways mapped by the U.S. Geological Survey.

Person. Any individual, firm, partnership, joint venture, association, corporation, limited liability company (LLC), syndicate, this and any other County, City and County, City, municipality, district or other political subdivision, or any other group or combination acting as a unit.

Phased development. The partial development of any lands through the procedures contained in Section 16.62.040(D) or 16.63.040(E).

Planned unit development (PUD). See Section 16.63.130 of this title. The development of a parcel or contiguous parcels or portions of such parcel or contiguous parcels, as individually subdivided lots; as an unsubdivided multiple unit development; or the clustering of units or lots where these methods allow a degree of latitude in the overall land use density and/or individual lot sizes for the preservation or enhancement of open space (or greenway), natural features and the objectives identified in Section 16.63.130.

Planning Official. The Planning Official of the City of Happy Valley or the Planning Official's designee.

Planter strip. A landscaped area of land located within the public right-of-way, between the street curb and the sidewalk. Planter strips adjacent to lots require planting with standard residential lawn or turf, or may be planted with acceptable vegetative groundcover designed to cover a minimum of seventy-five (75) percent of the planter strip area upon maturity, including xeriscape compatible groundcovers or artificial lawn. Secondary materials may include decorative rock, wood chip, bark nuggets, barkdust or similar treatments, but are unacceptable as the primary cover. Planter strips may also include street furnishing elements consistent with Happy Valley Style design guidelines such as tree grates, benches, and bicycle racks.

Plat. A map, either preliminary or final, which includes diagrams, drawings and other writing containing all the descriptions, locations, dedications, provisions, and information concerning a land division. This term includes the State law definitions of "partition plat" and "subdivision plat." See also Chapter 16.63, Land Divisions and Property Line Adjustments.

Plaza. An area generally open to the public on a controlled basis and used for passive recreational activities and relaxation. Plazas are paved areas typically provided with amenities, such as seating, drinking and ornamental fountains, art, trees, and landscaping for use by pedestrians. See also "pedestrian amenities."

Post-construction erosion control. Reestablishing groundcover or landscaping prior to the removal of temporary erosion control measures.

Practicable. Available and capable of being done after taking into consideration cost, existing technology and logistics in light of the overall project purpose and probable impact on ecological functions. In regard to Habitat Conservation Areas (HCAs) the practicability of a development option shall include consideration of the type of HCA that will be affected by the proposed development. For example, High HCAs have been so designated because they are areas that have been identified as having lower urban development value and higher-valued habitat, so it should be more difficult to show that alternative development options that avoid the habitat are not practicable. On the other hand, Low HCAs have been so designated because they are areas that have been identified as having higher urban development value and lower-valued habitat, so it should be less difficult to show that alternative development options that avoid the habitat are not practicable.

Prefabricated house or assembly. A house, portion of a house or structural unit, the integral parts of which have been built up or assembled prior to incorporation in the building or structure. These factory-built or modular units are designed and constructed to satisfy all provisions of the Uniform Building Code and other related codes.

Preliminary plan. A clearly legible and approximate drawing of the proposed layout of streets, blocks, lots and other elements of a subdivision or partition which shall help furnish a basis for the Planning Commission's approval or disapproval of the general layout of the subdivision. For the purpose of this title the terms "preliminary" and "tentative," as used with state law, shall by synonymous, as will "plat" and "plan."

Premises. A lot or number of lots on which are situated a business, or a building or group of buildings designed as a unit.

Primary structure. A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure. The difference between a primary and accessory structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on a site.

Primary use. An activity or combination of activities of chief importance on the site. One of the main purposes for which the land or structures are intended, designed, or ordinarily used. A site may have more than one primary use.

Project. An existing or proposed use or development.

Property lines. The property lines along the edge of a lot or site. See "lot line" (front, rear, interior side).

Protected water features. Wetlands, rivers, natural lakes, streams, creeks, springs, and drainages.

Public access easement. A public access easement is an easement granted to the public for all the purposes for which a public sidewalk may be used, including but not limited to, pedestrian and bicycle travel.

Public and semi-public buildings and uses. A building or use, such as a church, school, auditorium, meeting hall, hospital, stadium, library, art gallery, museum, fire station or utility substation or use such as a park or playground or community center, owned or operated by a religious, fraternal, charitable or other nonprofit organization; a public utility; or any governmental agency.

Public improvements. Development of public infrastructure, as required by the City, County, Special District, or Road Authority, as applicable. See Chapter 16.50.

Public safety facility. A facility necessary to respond to an immediate hazard to the public health and safety, and that is owned, leased, or operated by the City of Happy Valley or other public agency or private utility. Public safety facilities include fire and police stations, flood control facilities, water towers and pump stations needed for emergency service, and emergency communication broadcast facilities. For the purposes of Section 16.44.020, public safety communication facilities are temporary wireless communications facilities that are deployed for emergency purposes and that will remain in use no longer than is needed to provide emergency service.

Qualified professional. An individual who has proven expertise and vocational experience in a given field (e.g., natural resource biologist, geotechnical engineers, traffic engineers, etc.).

Quasi-judicial. An action or decision that requires substantial discretion or judgment in applying the standards or criteria of this Code to the facts of a development proposal, and usually involves a public hearing. See Chapter 16.61 (Type III Review).

Rail right-of-way. A public or private right-of-way, for the purpose of allowing rail travel.

Receiving bodies of water. Creeks, streams, rivers, lakes, ponds and other bodies of water into which surface waters are directed, either naturally or in manmade ditches or open systems.

Recreational area. An area of land that is improved to create the opportunity for passive or active recreational activities. Passive recreational activities include but are not limited to walking, jogging, hiking, biking and picnicking. Active recreational activities include but are not limited to basketball, baseball, soccer, volleyball, tennis, use of playground equipment and other sports.

Recreational vehicle park. A commercial use providing space and facilities for motor homes or other recreational vehicles for recreational use or transient lodging. There is no minimum required stay in a recreational vehicle park. Uses where unoccupied recreational vehicles are offered for sale or lease, or are stored, are not included as Recreational Vehicle Parks. See also "mobile home park."

Regional stormwater detention facility. A pond, swale or underground system engineered to detain stormwater from more than one development according to the rules and regulations of the City and Clackamas County Water Environment Services.

Regional trail. A ten (10) to fifteen (15) foot wide improved, all-weather surface pathway that is utilized for pedestrian and bicycle traffic. Regional trails are typically located within public easements or rights-of-way, and may include the installation of removable bollards to prevent use by unauthorized motorized vehicles. Regional trails are required to be maintained by the local municipality or some circumstances, may be maintained by a homeowner's association or equivalent maintenance organization.

Registered family child care or disabled adult day care home. "Licensed" means registered or certified. "Registration" means the document a family childcare or disabled adult daycare provider as issued by the state of Oregon to operate a family child care or disabled adult daycare home where care is provided in the family living quarters of the provider's home pursuant to ORS 329A.330 and OAR 414-205-0000 through 414-205-0170. Registration is limited to one provider at one address. "Certificate" means the document that is issued by the state of Oregon.

Removal of, or remove, a tree. To cut down a tree, remove the crown or top of the tree, or to damage a tree so as to cause the tree to decline and/or die. "Removal" includes, but is not limited to, damage inflicted upon the root system by the application of toxic substances, the operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or by

the unapproved alteration of natural physical conditions. "Removal" does not include normal trimming or pruning of trees, but does include topping of trees.

Renovation plan. A written proposal to restore the distinctive and historically authentic architectural, historical, or cultural character of a historic resource while retaining or establishing the possibility for efficient, contemporary use.

Replacement structure. For the purposes of Section 16.44.020, a utility structure that replaces a lawfully existing utility structure or support structure to accommodate wireless communication facilities and does not result in an increase in the total number of utility, guy, or support poles in the right-of-way or on private property.

Residence. Same as "dwelling."

Residential facility/group care facility. A residence for six to fifteen (15) physically or mentally disabled persons, and for staff persons. The facility may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of Residential Facility. Residential facilities may also include nursing homes, convalescent homes, and extended care facilities.

Residential home/group care home. A residence for five or fewer physically or mentally disabled persons, and for staff persons. The residence may provide residential care alone, or in conjunction with training or treatment. This definition includes the State definition of residential home.

Residential trailer. A mobile home that was not constructed in accordance with Federal manufactured housing construction and safety standards (HUD Code), in effect after June 15, 1976. This definition includes the State definitions of residential trailers and mobile houses, as stated in Oregon Revised Statutes (ORS) 446.

Restaurant, full service. A restaurant where meals are principally served and eaten on premises, but services may also include take-out and food delivery.

Restaurants, drive-through. A restaurant where food service is partially or principally provided via a drive-through window.

Restoration (natural resources). For the purposes of Chapters 16.34 and 16.35, the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function and/or diversity to that which existed prior to impacts caused by human activity.

Revegetation. The replacement of vegetation which was existing on any site prior to any work done and displayed by such work. Revegetation may be done by seeding the prepared ground surface or the actual planting of healthy seedlings, saplings or other vegetation of a quality which is equal to or in excess of the quality of the displaced vegetation.

Review body. The person or group that is assigned to make decisions on land use reviews, whether initially or on appeal. Review bodies in the City of Happy Valley include the Planning Official, Hearings Officer, Planning Commission, Design Review Board and the City Council.

Ridge line (building). The top of a roof at its highest elevation.

Right-of-way. An area that allows for the passage of people or vehicles. Right-of-way includes passageways such as freeways, pedestrian connections, alleys, and all streets. A right-of-way may be dedicated or deeded to the public for public use and under the control of a public agency, or it may be privately owned. A right-of-way that is not dedicated or deeded to the public will be in a tract. Right-of-way also includes the space upon, above, below, in, along, across, over, or under public streets, roads,

highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland, or city owned property not generally open to the public for travel. This definition applies only to the extent of the City's right, title, and interest in the property and its authority to grant a license, permit, or other permission to use and occupy the property.

Riparian. Those areas associated with streams, lakes and wetlands where vegetation communities are predominantly influenced by their association with water.

Riparian corridor. The vegetated area adjacent to (and including) streams, lakes, rivers, and other watercourses.

Roadway; Roadway Authority.

1. **Roadway.** The portion of a right-of-way that is improved for motor vehicle travel. Roadway includes vehicle travel lanes and on-street parking areas. Roadway does not include area devoted to curbs, parking strips, or sidewalks.

2. **Road Authority.** The City or other agency (e.g., Oregon Department of Transportation, Clackamas County, a special purpose district, or other agency) with jurisdiction over a road or street.

Roof pitch. The slope of a roof, usually described as ratio (e.g., one foot of rise per two feet of horizontal distance).

Rooming house. A single-family dwelling, accessory dwelling unit (ADU) or either unit of a two-family dwelling (duplex), which is rented for a valuable consideration or wherein rooms with or without cooking facilities are rented for a valuable consideration to or occupied between more than two and up to five or more natural persons unrelated by blood, marriage or legal adoption to the owner or operator of the house. Foster children placed in a lawful foster family home, a community residential home with six or fewer residents, a nursing home, or a residential care facility shall not be considered a rooming house. Temporary gratuitous guests as used herein shall refer to natural persons occasionally visiting the single-family house for a short period of time not to exceed thirty (30) days within a ninety (90) day period.

Routine repair and maintenance. Activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use.

Screen. For the purposes of Section 16.44.020, to effectively obscure the view of the base of a wireless communication facility and its auxiliary support equipment.

Self-service storage. A business that provides individual storage spaces for customers to store personal or business goods. "Self-service storage" includes "mini-storage" and "mini-warehouse."

Senior housing. Includes independent care and assisted care facilities for the elderly, but excludes nursing homes, convalescent care and institutional type living arrangements unless part of a congregate/assisted-living facility complex, and the congregate care portion does not make up more than twenty-five (25) percent of the total gross area of the facility. Senior housing is allowed in multifamily zoning districts, and can consist of a combination of apartments, rowhouses and other types of housing units. Units may be connected to each other by hallways or breezeways.

Setback/setback yard. The minimum or maximum distance required between a specified object, such as a building, and another point, measured from lot lines to a specified object. Typically, a setback refers to the minimum distance (yard dimension) from a building to a specified property line. Setbacks are measured along a horizontal plane as the shortest distance between the lot line and the closest portion of

the structure's foundation. A foundation survey in all development districts may be required at the discretion of the City.

Shadow plan platting. A plan for future development shown on a master plan indicating where future buildings and lot divisions can be placed to ensure efficient development and redevelopment of larger parcels.

Shared driveway. When land uses on two or more lots or parcels share one driveway. An easement or tract (owned in common) must be created and recorded for this purpose.

Shared parking. Required parking facilities for two or more uses, structures, or lots or parcels, which are satisfied jointly with the same facilities. See Chapter 16.43.

Shopping street. A driveway in a commercial development that is designed to mimic a public street with sidewalks, tree wells, pedestrian lighting, and street furnishings. A shopping street may also have on-street parking.

Short-term rental housing. Renting of a dwelling unit (in full or in part) or accessory dwelling unit for purposes of short-term rental income. Commonly referred to as "AirBnB" (or similar).

Sidewalk. A surfaced strip of land, legally accessible to the public, or a large segment of the public, improved to accommodate pedestrian traffic.

Sight distance. The unobstructed viewing distance measured from one object or location to another object or location, usually required the purpose of traffic safety.

Sign. Any outdoor device, or device visible from outdoors, providing identification, advertising or directional information for a specific business, group of businesses, service, product, brand, person, organization, place or building. Included in this definition of signs are graphic devices such as logos, trademarks, and attention attracting objects such as wind-driven spinners and portable sign devices, logo sculpture and banners, balloons, streamers, strobe lights, flags, inflatable structures, projected picture signs, holographic projection signs, laser projected designs/images/copy and other attention attracting media and devices. However, the term "sign" shall not include the flag, emblem or insignia of a nation, government unit, school or religious group, except as such emblems shall conform to illumination standards set forth in Chapter 16.45. The term includes the sign structure, display surface and all other component parts of a sign; when dimensions of a sign are specified, the term includes panels and frames; and the term includes both sides of a sign of specified dimensions or display surface area.

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

Sign, Animated or Moving. A sign or display, or part of a sign or display, that changes position or light intensity by any movement or rotation or that gives the visual impression of such movement or rotation.

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

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

Sign, Banner. A temporary sign made of nonrigid material without an enclosing framework. For the purposes of this chapter, advertisement flags are to be considered banners. National flags, flags of political subdivisions and symbolic flags of an institution, group or a business are excluded.

Sign, Billboard. A large format sign advertising displays intended for viewing from extended distances, generally more than fifty (50) feet, with a display surface area of two hundred (200) square feet or more.

Sign, Canopy. A type of wall sign painted or printed on, or attached to the canopy fascia.

Sign, Construction. A temporary sign displayed on the premises on which construction is taking place, during the period of such construction.

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

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

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

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

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

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

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

Sign, Flashing. Any directly or indirectly illuminated sign exhibiting changing natural or artificial light or color effects by any means whatsoever. This includes illuminated signs exhibiting the illusion of movement by means of a preprogrammed repetitious sequential switching action in which illuminated elements of the sign and are turned on or off to visually simulate the impression of motion characteristic of chasing, running, blinking, oscillating, twinkling, scintillating, or expanding and contracting light patterns.

Sign, Freestanding. A sign supported from the ground by its own structure and not attached to a building.

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

Sign, Illuminated. A sign with an artificial light source incorporated internally or externally for the purpose of lighting the sign. The following are types of sign illumination:

1. "Direct" means lighting where-in the light source is visible.

2. "Fluorescent tube" means lighting wherein an electrical current is passed through a gas-filled tube, with a coating of fluorescent material on its inner surface, which emits visible light.

3. “Incandescent bulb” means lighting wherein an electrical current is passed through a filament inside a bulb and the filament emits visible light. The filament source of light may be visible as in clear bulb or bare bulb illumination or it may not be visible as in frosted or painted bulb lighting.

4. “Indirect” means lighting wherein the light source is separate from the object to be illuminated, including but not limited to a sign face or cabinet, and is directed to shine on the object or sign.

5. “Internal” means a lighting wherein the light source and the bulb or tube enclosing the light source are enclosed within a structure, including but not limited to a sign and are not visible.

6. “Neon” means lighting where-in an electrical current is passed through a tube containing neon gas which emits visible light.

Sign, Incidental. A sign identifying or advertising associated goods, products, services or facilities available on the premises, including but not limited to, trading stamps, credit cards accepted, brand names or price signs.

Sign, Lawn. A temporary, freestanding or A-frame sign.

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

Sign, Monument. A ground-level sign not mounted on a pole or structure. This sign is permanently affixed at grade and has a monolithic or columnar line and maintains essentially the same contour from grade to top.

Sign, Nonconforming. A sign lawfully erected and existing, and properly maintained and repaired prior to the adoption of this Code and Chapter 16.45, but which does not meet the requirements of this chapter.

Sign, Obsolete. A sign that calls attention to a business or other activity or a profession, commodity, product, service or entertainment no longer carried on, produced, sold or offered.

Sign, Obstructing. A sign, including its supports and structure, which interferes with the use of a fire escape, exit or a window such that light, ventilation or ingress and egress is reduced below the minimum required by law.

Sign, Off-premises. A sign which identifies or gives directions to a use or activity and which is located on premises other than where the activity or use is provided.

Sign, Projecting. A sign projecting more than one foot from the wall of a building.

Sign, Public. A sign erected and maintained by a special purpose district, public school district, municipal, County, State or Federal government, or any political subdivision or agency thereof.

Sign, Readerboard. A sign no greater than twenty-four (24) square feet in size on which copy can be changed electronically by using patterns of lights that may be changed at intermittent intervals or can be changed manually, in the field, using letters, numbers or symbols which can be affixed to the sign face.

Sign, Roof. A sign erected or maintained wholly upon or over the roof of any building with the principal support on the roof structure.

Sign, Shingle. A rigid sign hanging from an awning, canopy, marquee or building overhang or attached to a wall and perpendicular to that wall.

Sign, Subdivision. A sign located on land in a recorded subdivision approved through the City of Happy Valley subdivision review process.

Sign, Temporary. A sign that will become obsolete after the occurrence of an event or series of events. Temporary signs include, but are not limited to, for sale and lease signs, garage sale signs and political campaign signs. Temporary signs are not permanently attached to the ground (set on or post driven or dug into the ground with no footing or foundation), wall or building.

Sign, Traffic Control. A sign or device used as an official route marker, guide sign, warning sign or sign directing or regulating traffic or pedestrians which has been erected by or under order of the City of Happy Valley, the State or Federal governments.

Sign, Wall. A sign fastened to or painted on the wall of a building or structure in such a manner that the wall becomes the supporting structure for, or forms the background surface of, the sign and that does not project more than twelve (12) inches from such building or structure.

Sign clearance. The distance from the grade directly below a sign to the bottom of the lowest portion of the sign.

Sign contractor. A person engaged in the business of sign construction, sign maintenance or sign repair and registered with the Oregon Construction Contractors Board.

Sign face. The total of display surface area visible from one side of a sign.

Sign face area. The portion of a sign containing copy and the background for the copy.

Sign maintenance. Normal care needed to keep a sign functional such as cleaning, painting, oiling and changing bulbs and tubes.

Sign Official. Planning Official or designee.

Sign structure. One or more supports, uprights, braces, or other framework of a sign.

Significant wetland. A wetland mapped on the City local wetlands inventory.

Site. For land divisions, property line adjustments, and lot consolidations, the site is the lots, lots of record, parcels, or tracts proposed to be divided or reconfigured. For all other purposes, the site is an ownership except as follows:

1. If a proposed development includes multiple ownerships, then the site is the combined area of all the ownerships.

2. If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development.

3. If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

Site frontage. The part of a site that abuts a street. See also "block frontage."

Siting. For the purposes of Section 16.44.020, the location, construction, collocation, modification, or installation of a wireless communication facility.

Skilled nursing facility. Skilled nursing facilities provide twenty-four (24) hour direct medical, nursing and other health services. Registered nurses, licensed practical nurses, and nurses' aides provide services prescribed by resident(s) physician(s). Skilled nursing is for those persons who need health supervision but not hospitalization. The emphasis of this use is on nursing care, but convalescent,

restorative physical, occupational, speech, and respiratory therapies are also provided. The level of care may also include specialized nursing services such as specialized nutrition, rehabilitation services and monitoring of unstable conditions. The term skilled nursing facility is also synonymous with the terms nursing facility and nursing home.

Slope. The "slope" of a lot is calculated pursuant to Chapter 16.32.

Small cell network. A collection of functionally related small cell facilities designed to deliver wireless communication service. The small cell facilities in a small cell network may be located on one or more utility structures or support structures within and/or outside of the public right-of-way.

Small wireless facilities. As defined by the Federal Communications Commission (CFR 1.1312.e.2), facilities that meet the following conditions:

1. The facilities are mounted on structures fifty (50) feet or less in height including their antennas (as defined in CFR 1.1320.d);
2. The facilities are mounted on structures no more than ten (10) percent taller than other adjacent structures;
3. The facilities do not extend existing structures on which they are located to a height of more than fifty (50) feet or by more than ten (10) percent, whichever is greater;
4. Each antenna associated with the deployment, excluding associated antenna equipment is no more than three cubic feet in volume;
5. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure is no more than twenty-eight (28) cubic feet in volume;
6. The facilities do not require antenna structure registration under Part 17 of 47 CFR; and
7. The facilities do not result in human exposure to radio-frequency radiation in excess of applicable safety standards specified in CFR 1.2307.b.

Stealth technology. A facility, including, but not limited to, antennas, support towers, and ancillary support equipment that, to the extent feasible, are screened or otherwise designed such that the facility blends in with the surrounding area and visual impacts from nearby streets or properties are minimized. In the case of a modification, the change or alteration does not result in a substantial change to the physical dimensions of a support structure. In the case of a support tower or monopole, "stealth technology" also means a facility that is designed and installed with specific features that render it visually similar to nearby objects such as trees, flag poles, or utility poles.

Steep slopes. Slopes that are equal to or greater than fifteen (15) percent. (See Chapter 16.32.)

Storefront character. The character expressed by buildings placed close to the street with ground-floor display windows, weather protection (e.g., awnings or canopies), corner building entrances or recessed entries, and similar features.

Stormwater detention facility. A pond, swale or underground systems engineered to detain stormwater from the proposed development according to the rules and regulations of the City and Clackamas County Water Environment Services.

Stormwater management system. A stormwater facility (e.g., conveyance, detention/retention, treatment system or outfall) intended to control and manage stormwater to minimize the detrimental effects of surface water runoff.

Stormwater pretreatment facility. Any structure or drainageway that is designed, constructed and maintained to collect and filter, retain or detain surface water runoff during and after a storm event for the purpose of water quality improvement.

Story. The portion of a building included between the upper surface of any floor and the upper surface of any floor next above, except that the top story shall be that portion of a building included between the upper surface of the top floor and the ceiling above. If the finished floor level directly above a basement or cellar is more than five feet above grade, such basement or cellar shall be considered a story.

Stream. An area where enough natural surface water flows to produce a stream channel, such as a river or creek that carries flowing surface water either intermittently or during most of the year. This includes:

1. The water itself, including any vegetation, aquatic life, or habitat;
2. Beds and banks below the high water level which may contain water, whether or not water is actually present;
3. The floodplain between the high water levels of connected side channels;
4. Beaver ponds, oxbows, and side channels if they are connected by surface flow to the stream during a portion of the year; and stream-associated wetlands.

Stream channel. An area with evidence of perennial or seasonal water passage. The depression between the banks worn by the regular and usual flow of the water. The channel need not contain water year-round. This definition does not include irrigation ditches, canals, storm or surface water runoff devices, or other entirely artificial watercourses.

Street. A public right-of-way or private tract that is intended for motor vehicle, pedestrian and bicycle travel or for motor vehicle, bicycle or pedestrian access to abutting property. It shall include the terms street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, lane, place and other such terms. Street types include:

1. **Major arterial.** A street which provides a connection between major traffic generators and is primarily concerned with the movement of large volumes of traffic within an urban area. Includes highways and other major streets with limited or no direct access from adjoining properties.

2. **Minor arterial.** A street which generally serves as a connection between streets of both greater and lesser capacities traffic volumes. Minor arterials may be constructed to structural standards which are below that of a major arterial.

3. **Collector road.** A street which provides connection between local street networks and arterial streets. This type of street serves traffic within commercial, industrial, and residential neighborhood areas.

4. **Neighborhood street.** A street that is intended to provide direct access to abutting residential properties and discourage through traffic movements not related to the neighborhood in which the residential street is located.

5. **Local street.** A street which provides minor traffic service.

6. **Lane.** A street having two open ends not exceeding one thousand five hundred (1,500) feet in length and being constructed to the same specifications as a cul-de-sac.

7. **Alley.** An undedicated private right-of-way that provides vehicle access to a lot or common parking area. Generally, alleys provide secondary vehicle access; however, where vehicle access from the street is not allowed, not possible, or not desirable the alley may provide primary vehicle access.

8. **Cul-de-sac.** A street having one end open to traffic and the other end permanently terminated and provided with a vehicular turnaround at the termination of such street.

9. **Private street.** An undedicated private right-of-way providing access from a public street to any property, except flag lots.

10. **Dead-end street.** A street that connects to another street at only one end and does not have a City-approved turnaround on its other end. A pedestrian connection may extend from the end of a dead-end street to connect with another street of any type, or with another pedestrian connection.

Street connectivity. Expressed as the number of street and/or access way connections within a specific geographic area. Higher levels of connectivity provide for more direct transportation routes and better dispersion of traffic, resulting in less traffic on individual streets and potentially slower speeds through neighborhoods.

Street-facing façade/wall. All the wall planes of a structure as seen from one side or view that are at an angle of forty-five (45) degrees or less from a street lot line.

Street frontage. A street parallel to and adjacent to arterial street providing access to abutting properties and protection from the through traffic.

Street furniture/furnishings. Benches, lighting, bicycle racks, drinking fountains, mail boxes, kiosks, and similar pedestrian amenities; may be located within a street furnishings zone or building front zone of a sidewalk or in a plaza. See also "pedestrian amenities."

Street light only pole. Any pole installed for the exclusive purpose of supporting street lighting facilities.

Street stub. A temporary street ending where the street will be extended through adjacent property in the future, as those properties develop. Not a permanent street-end or dead-end street.

Street tree. A tree planted in the public right-of-way in a planter strip or tree well between the street and sidewalk, or within a public utility and street tree easement along private streets.

Structure. Anything constructed or built, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, including tennis courts and other recreational facilities, but excluding fences and grade level improvements such as pavement for driveways or concrete flatwork such as patios.

Structure height. The height of a structure, and the cumulative height of a building with any appurtenant structures. (See definition of "building height.")

Subdivision. To divide land into four or more lots within a single calendar year. See also Chapter 16.63, Land Divisions and Property Line Adjustments and ORS 92.010(13).

Subject property. The parcel or parcels of land that are the subject of the permit and/or approval action. (See "site.")

Substantial change in physical dimensions. For the purposes of Section 16.44.020, a modification which meets one or more of the following criteria:

1. The modification would increase the existing height of a support tower by more than ten (10) percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty (20) feet, whichever is greater, or would increase the height of a base station by more than ten (10) feet or ten (10) percent, whichever is greater, provided the support tower or base station is located outside the right-of-way; or

2. The modification would protrude from the edge of the support tower more than twenty (20) feet, or more than the width of the support tower structure at the level of the appurtenance, whichever is greater, and further provided the support tower is outside the right-of-way; and for towers in the right-of-way and base stations, the modification would increase the height more than ten (10) percent or six feet, whichever is greater; or

3. The modification would involve the installation of more than the standard number of new equipment cabinets for the technology involved, not to exceed four; or for support towers in the right-of-way and base stations, the modification involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the support tower or base station, or else involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other ground cabinets associated with the support tower or base station; or

4. The modification would involve excavation or deployment outside the current site, defined, with respect to support towers other than support towers in the right-of-way, as the current boundaries of the leased or owned property surrounding the support tower and any access or utility easements currently related to the site; with respect to support towers in the right-of-way and base stations, site is restricted to that area in proximity to the support tower, base station, or auxiliary support equipment already deployed on the ground; or

5. A replacement structure; or

6. The modification would defeat the concealment elements of the support tower or base station; or

7. The modification does not comply with conditions associated with the siting approval of the construction or modification of the support tower, base station, or base station equipment, provided that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in subsections (1) through (4) of this definition.

Substantial compliance. The City Comprehensive Plan and implementing ordinances, on the whole, conform with the purposes of the performance standards in the functional plan and any failure to meet individual performance standard requirements is technical or minor in nature.

Sunrise Expressway. The Sunrise Expressway is a multi-lane highway planned for three through lanes and auxiliary lanes associated with the interchanges planned to be built in phases to provide safe and efficient high speed and high volume traffic movement. The primary function is to provide for interurban travel including for freight mobility. Speeds are moderate to high. Public road connections are highly controlled and parking is prohibited. Pedestrian facilities are separated from the roadway and bikeways are part of the roadway. Private access is discouraged and the FHWA's Sunrise Project I-205 to Rock Creek Junction Record of Decision reflects the planned public access. See Figure PA-5.

Swale. A type of stormwater facility. Usually a broad, shallow depression with plants that filter and process contaminants.

Tangent. Meeting a curve or surface in a single point.

Terrace. A porch or promenade supported by columns, or a flat roof or other platform on a building.

Through lot. See "lot type."

Through street. A street that connects to other streets at both ends.

Tiedown (manufactured home). Any device designed to anchor a manufactured home securely to the ground.

Top of bank. The same as "bankful stage" defined in OAR 141-85-010(2).

Topping (tree). The severe cutting back of limbs within the tree's crown to such a degree as to remove the natural canopy and disfigure the tree. With regard to "fir," "evergreen" or any other variety of conifer, "topping" means the removal of any portion of the highest point of the tree. If the tip has curled over, it will still constitute the highest point of the tree.

Tract. A piece of land within a platted subdivision, partition or planned unit development reserved for open space, utility corridor, recreation facilities, natural resource area, or other purpose; may be dedicated to a homeowner's association or other entity for maintenance.

Trailer (travel). A vacation structure or self-propelled vehicle equipped with wheels for street or highway use; intended for human occupancy; equipped with plumbing, sink or toilets; used for vacation and recreational purposes; and not used as a residence.

Transfer station. A facility used as part of a solid waste collection and disposal system or resource recovery system, between a collection route and a processing facility or disposal site, which may include areas designated for general public drop off of items for disposal, reuse or recycling, and areas designated for public education regarding solid waste and recycling.

Transit street. A street that is classified in the Transportation Element of the Comprehensive Plan as a bus route.

Transportation mode. The method of transportation (e.g., automobile, bus, walking, bicycling, train, etc.).

Travel trailer/recreational vehicle park/campground. A lot or parcel on which two or more travel trailers, recreational vehicles, motor homes, tent trailers, tent sites, capers, and/or similar vehicles or devices are permitted outright, for a stay of limited duration, with or without a charge or fee.

Tree canopy. The ground area that, when viewed from above the crown of one or more trees, is mostly covered by the tree(s). For deciduous trees, canopy area is based on the time of year when foliage is present.

Tree farm. Any property being lawfully utilized for the commercial production of landscaping, nursery stock or Christmas trees, and including fruit and nut orchards; provided, however, that any land previously designated for exclusive farm use (EFU) by Clackamas County, within a state or County tax deferral program for timber production, and subsequently annexed into the City, shall be treated as a "tree farm" for so long as the deferrals remain in effect. Forested lands annexed within the City limits that hold a Clackamas County rural residential farm forest—five acre minimum parcel size (RRFF-5) or farm forest—ten (10) acre minimum parcel size (FF-10) or annexed lands that have subsequently received urban zoning, are not classified as "tree farms" unless trees have been planted in symmetrical rows.

Tree well. A planter area cut out of a sidewalk within the street furnishing zone, planted with a street tree and including groundcover or a grate cover; typically used in commercial districts where on-street parking or pedestrian traffic makes the use of a planter strip impracticable.

Truck. A motor vehicle that is designed primarily for the movement of property or special purpose equipment, or a motor vehicle that is designed to carry more than ten (10) persons. Truck includes vehicles commonly called trucks, pick-ups, delivery vans, buses, motor homes and other similar vehicles. See also National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Chapter V, Section 571.3.

1. **Light truck.** Trucks and similar vehicles with single rear axles and single rear wheels.

2. **Medium truck.** Trucks and similar vehicles, other than truck tractors, with single rear axles and dual rear wheels. Truck tractors are in the heavy truck category.

3. **Heavy truck.** Trucks, including truck tractors, and similar vehicles with two or more rear axles.

Turnaround. A vehicle maneuvering area at the end of a dead-end street (e.g., hammerhead, cul-de-sac, or other configuration) that allows for vehicles to turn around.

Undergrounding. The conversion of overhead utility facilities to underground utility facilities in a variety of conduits, vaults and all other necessary utility infrastructure.

Uniformity of illumination. The ratio of average illumination level on the roadway to the minimum illumination at any point on the roadway.

Urban development value. The economic value of a property lot or parcel as determined by analyzing three separate variables: assessed land value, value as a property that could generate jobs ("employment value"), and the Metro 2040 design type designation of property. The urban development value of all properties containing regionally significant fish and wildlife habitat is depicted on the Metro Habitat Urban Development Value Map.

Urban growth boundary (UGB). Urban growth boundary adopted pursuant to ORS Chapter 197.

Usable open space. Planned and improved open space or outdoor facilities that provide active and passive recreational or relaxation opportunities, including, but not limited to one of the following: parks, play areas; improved playing fields; publicly accessible natural or wildlife viewing areas; unimproved park land dedicated or owned by a public entity; arboretums and gardens, ponds and water features; maintained and landscaped walking paths and running trails; public and private pedestrian spaces; and other similar environments. Usable open space does not include slopes over twenty-five (25) percent, wetlands, natural areas, streams or stream banks where access and improvements are prohibited under Federal or state law (including OAR 660-23, DLCD Goal 5 regulations). If such areas are publicly accessible, and if viewing areas and improvements are allowed and made at the periphery of the areas to enhance access to and viewing of the wildlife and/or natural areas, then those lands may be considered as usable open space.

Use. The purpose for which land or a structure is designed, arranged, intended, occupied, or maintained.

Utility facilities. Buildings, structures or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat,

light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pretreatment facilities.

Utility trailer. A vehicle designed to be pulled by a motor vehicle which is used to carry property, trash, or special equipment and that is sixteen (16) feet or less in length. Boat trailers are included as utilitytrailers. Utility trailers that are longer than sixteen (16) feet are considered industrial vehicles and are regulated as heavy trucks.

Vacate plat/street. To abandon a subdivision or street right-of-way. For example, vacation of a public right-of-way that is not needed or cannot be used for a street or other public purpose. Vacation of a plat typically returns the property to the adjoining owners and restores it to an undivided condition and ownership.

Vacation home rental. A commercial use of a single-family or duplex dwelling unit where the unit is rented for periods of time of twenty-eight (28) or fewer consecutive days.

Variance. An administrative or quasi-judicial decision to lessen or otherwise modify the requirements of this title. (See Chapter 16.71.)

Vegetated corridor. The area of setback between the top of bank of a protected water feature and the delineated edge of the water quality resource area. (See Chapter 16.34.)

Vehicle areas. All of the areas on a site where vehicles may circulate or park including parking areas, driveways, drive-through lanes, and loading areas. See also “driveway” and “parking area.”

View corridor. A strip of land, not to exceed thirty (30) feet in width, through or over which an aesthetically pleasing vista of the surrounding landscape or cityscape may be seen.

Vision clearance area. Those areas near intersections of roadways and motor vehicle access points where a clear field of vision is necessary for traffic safety and to maintain adequate sight distance. See standards in Section 16.50.030(B).

Wall. A masonry or similar structure serving to enclose or divide an area.

Wall area. The measurement in square feet of a building wall based on the height and width of an architectural elevation.

Warehouse. A building used primarily for the storage of materials or goods for use on the site or for later distribution.

Waste collection areas. Waste collection areas include areas set aside or designed to be used for garbage collection and collection of materials for recycling. Waste collection areas include areas occupied by dumpsters and other solid waste receptacles.

Water bodies. Permanently or temporarily flooded lands which may lie below the deepwater boundary of wetlands. Water bodies include rivers, streams, creeks, sloughs, drainageways, lakes, and ponds.

Water quality facility. Any structure or drainageway that is designed, constructed and maintained to collect and filter, retain or detain surface water runoff during and after a storm event for the purpose of water quality improvement. It may also include, but is not limited to, existing features such as constructed wetlands, water quality swales, and ponds that are maintained as stormwater quality control facilities.

Water quality resource areas. Vegetated corridors and the adjacent protected water feature as established in Chapter 16.34.

Watershed. A geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or wetland.

Wetland. Those areas inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and under normal circumstances do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

Window. A transparent or semi-transparent (not more than fifty (50) percent opaque) glazing on a building façade. For the purpose of this Code, a window may be a display window (e.g., for merchandise, art, etc.) that is integral to a building design, but a window is not a display box mounted onto the exterior of a building.

Wireless communications facility. Any structure, antenna, equipment or other device that transmits and/or receives wireless communications, including, but not limited to, antennas of any type, support towers, support structures, equipment cabinets, and other auxiliary support equipment associated with the transmission of wireless communications, excluding amateur radio stations as defined by the Federal Communications Commission.

Wireless communications service. The providing or offering for rent, sale, lease or in exchange for other consideration, of the transmittal and reception of voice, data, image, graphic and other information by the use of current or future wireless communications facilities. Also, any wireless communication services authorized by the Federal Telecommunications Act of 1996 as amended, that currently exist or that may be developed in the future, including, but not limited to, cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging, similar Federal Communications Commission-licensed commercial wireless telecommunications services, but excluding wireless communication services used exclusively by gas and electric utilities and cooperative utilities for internal communications of an operational nature.

Woody vegetation. Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than sixty (60) percent crown closure) located within three hundred (300) feet of a surface stream.

Yard. The area defined by setbacks (i.e., between the setback line and nearest property line).

Zero-lot line house. A single-family detached dwelling with one “zero” side yard setback.

Chapter 16.13 ENFORCEMENT AND PENALTIES

16.13.010 Enforcement.

A. Complaints Regarding Violations.

1. Filing Written Complaint. Whenever a violation of this Code occurs, or is alleged to have occurred, any person may file a signed, written complaint.

2. File complaint with the City Manager. Such complaints, stating fully the causes and basis thereof, shall be filed with the City Manager or designees. The City Manager or designee shall properly record such complaints, investigate and take action thereon as provided by this Code.

B. Inspections. An official or employee may be designated by the City Council to make routine and periodic inspections of properties and premises within the corporate limits of Happy Valley to

determine whether there is compliance with the laws, rules and regulations which are designed for the protection of the health, safety, peace and welfare of the public; and it shall also be the duty of such persons to make such inspections upon the receipt of complaints, or specific or general information indicating the existence of hazardous conditions or noncompliance with such rules, regulations and laws. In the event any authorized officer or employee of the City shall be denied access to any property or premises for the purpose of making an inspection provided for in this chapter, then such officer or employee shall not inspect such premises unless and until he or she shall have obtained a search warrant for the inspection of such premises.

C. Search Warrants. No search warrant shall be issued, under the terms of this chapter, for the inspection of any property or premises within the corporate limits of the City unless and until there shall have been filed an affidavit showing probable cause for such inspection by stating the purpose and extent of the proposed inspection, the code or ordinance sections which form the basis of such inspection, whether it is a routine or periodic inspection or an inspection instituted by a complaint or other specified or general information concerning the property or premises or the area in which it is situated. The search warrant issued shall specify the purpose and extent of the inspection which is proposed to be made and the specific property or premises covered by such warrant. It is unlawful for any person, firm or corporation to hinder, delay or obstruct the inspection of premises based on a search warrant issued under the terms of this chapter.

D. Abatement. The location, erection, construction, maintenance, repair, alteration or use of a building or other structure in violation of this chapter shall be deemed a nuisance and may be abated as such.

E. Planning Official. It shall be the duty of the designated City official to enforce the provisions of this chapter. Such official shall send a description of any violation of this Code to the Community Services Director or City Manager within fifteen (15) calendar days after he or she becomes aware of the violation. The enactment of this chapter shall not invalidate any prior, existing or future prosecutions for violation of the chapter committed under a previous ordinance.

F. Legal Proceedings by City Attorney. In addition to the remedies prescribed in this section, the City Attorney, upon written request from the City Council, shall cause to be instituted any civil action, suit or other legal means it considers to be appropriate to remedy violations of this chapter.

G. Suits in Equity to Enjoin Violations. In case a building or other structure is, or is proposed to be located, constructed, maintained, repaired, altered or used, or any land is, or is proposed to be used in violation of this Code, the City Attorney, as prescribed in this section, or any person whose interest in real property in the City may be affected by the violation, may, in addition to other remedies provided by law, institute injunction, mandamus, abatement or other appropriate proceedings to prevent, temporarily or permanently enjoin, abate or remove the unlawful location, construction, maintenance, repair, alteration or use.

H. Stop Work Order.

1. Issuance. When it is necessary to obtain compliance with any provision of the Land Development Code including any conditions of approval, the Planning Official or designee may issue a stop work order requiring that all work, except work directly related to elimination of the violation, be immediately and completely stopped. If the Planning Official issues a stop work order, the responsible party may not resume work until such time as the Planning Official gives specific approval in writing. The stop work order will be in writing and will include:

a. Date of order;

b. Permit or registration number, where applicable;

c. Site address, legal description or project location of stop work order;

d. A description of violations observed; and

e. The conditions under which the work may resume.

The stop work order will be posted by the Planning Official at a conspicuous location at the site. In addition, a copy will be sent to the responsible party by certified mail. Where the responsible party is not the property owner, a copy of the stop work order will also be sent to the property owner. It is unlawful for any person to remove, obscure, mutilate or otherwise damage a stop work order. A stop work order is effective upon posting. When an emergency condition exists, the Planning Official may issue a stop work order orally. The Planning Official will then issue a written notice within twenty-four (24) hours.

2. Hearing. The Planning Official or designee shall schedule a hearing, if requested, in municipal court on the stop work order for the earliest practicable date, but not more than thirty (30) days after the effectiveness of any required notice. The municipal court judge shall conduct a hearing and make written findings as to the violation within fourteen (14) days of the hearing. Upon a finding of no violation, the municipal court judge shall require the issuance of a resume work order. Upon finding a violation, the stop work order shall continue to be effective until the violating party furnishes sufficient proof to the municipal court judge that the violation has been abated.

16.13.020 Violation—Penalties.

A. Any person, firm or corporation violating any provision of this chapter (except for those pertaining to illegal tree-cutting) shall be subject to a civil penalty of not more than five hundred dollars ($500.00) per violation.

B. Any person, firm or corporation illegally involved in the cutting of trees outside the perimeters of the conditions set forth in Section 16.42.050 shall be subject to the following civil penalties:

1. Not more than two thousand five hundred dollars ($2,500.00) for each such tree having a diameter of twenty (20) inches or more at a point forty-eight (48) inches above mean ground level at the base of the trunk.

2. Not more than five hundred dollars ($500.00) for each such tree having a diameter of six inches to less than twenty (20) inches at a point forty-eight (48) inches above mean ground level at the base of the trunk.

C. Each person, firm or corporation found guilty (except as to the illegal cutting of trees) shall be deemed guilty of a separate offense for every day during any portion of which any violation of any provision of this chapter is committed, continued or permitted by such person, firm or corporation, and shall be punishable therefore as provided for in this chapter, and any use, occupation, building or structure maintained contrary to the provision of this chapter shall constitute a public nuisance.

Chapter 16.14 FEES

16.14.010 Fees.

For the purpose of defraying the expenses arising from or incident to investigation, evaluation and processing of any application, petition or appeal and the cost of public notices, hearings, publications and mailings incident thereto, fees are prescribed and required to be paid to the City at the time of filing of the applicable application, petition or appeal. Such fees shall be prescribed by resolution of the City Council and shall be readily available to all interested parties from the City Recorder.

Happy Valley Municipal Code: Land Development Code Effective December 31, 2022 – January 4, 2023

ARTICLE 16.2 LAND USE DISTRICTS

Chapter 16.21 LAND USE DISTRICT ADMINISTRATION

16.21.010 Land use district map.

All development districts contained in this chapter are based on designations formulated for and contained in the Happy Valley revised Comprehensive Plan. The officially adopted land use map in the plan shall be the item used exclusively for the determination of the districts, their boundaries and their designations. The titles and descriptions of districts contained in this chapter are based directly upon the designations on the map. No separate zoning map shall exist.

16.21.020 Classification of land use districts.

Every parcel, lot, and tract of land within the City limits of the City of Happy Valley is designated with a land use (zoning) district. The use of land is limited to the uses allowed by the applicable land use district and/or overlay zone.

16.21.030 Determination of land use district boundaries.

Where due to the scale, lack of scale, lack of detail or illegibility of the City zoning map, or due to any other reason, there is uncertainty, contradiction or conflict as to the intended location of a district boundary line, the boundary line shall be determined by the Planning Official in accordance with all of the following criteria:

A. Rights-of-Way. Boundaries indicated as approximately following the centerlines of streets, highways, railroad tracks, alleys, irrigation canals, bridges, or other right-of-way shall be construed to follow such centerlines. Whenever any public right-of-way is lawfully vacated, the lands formerly within the vacated right-of-way shall automatically be subject to the same land use district designation that is applicable to lands abutting the vacated areas. In cases where the right-of-way formerly served as a land use district boundary, the lands within the right-of-way now vacated shall be allocated proportionately among the subject land use districts.

B. Parcel, Lot, Tract. Boundaries indicated as approximately following the boundaries of a parcel, lot, or tract shall be construed as following such boundaries.

C. Jurisdiction Boundary. Boundaries indicated as approximately following a City or County boundary, or the urban growth boundary, shall be construed as following said boundary.

D. Natural Features. Boundaries indicated as approximately following a river, stream, drainage channel, drainage basin, topographic contour or other changeable natural feature not corresponding to any feature listed in subsections A through C of this section, shall be construed as following such feature, except that the location may be corrected administratively through a Type I (code interpretation) procedure, in accordance with Chapter 16.61.

Chapter 16.22 RESIDENTIAL LAND USE DISTRICTS

16.22.010 Future urbanization zone.

A. Purpose—Future Urbanization (FU-10). This district is intended to preserve for future development at urban densities the future urbanizable areas of the City as designated by the Comprehensive Plan and to act as a "holding area" for future urban development on lands formerly in unincorporated Clackamas County that are annexed to the City.

B. Area of Application. The FU-10 zone is applied to those areas designated as future urbanizable on the City's zoning map.

C. Permitted Uses. Table 16.22.010-1 identifies the land uses that are allowed in the Future Urbanization (FU-10) District.

Table 16.22.010-1 Future Urbanization (FU-10) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	**FU-10**
Residential	
Accessory dwelling units complying with Section 16.44.050	P
One single-family dwelling, modular dwelling unit, mobile or manufactured home per lot. As an accessory use, there may be the customary outbuildings and no more than one accessory dwelling unit, complying with the requirements of Section 16.44.050.	P
Residential care facilities	C
Temporary manufactured home to allow for care of an aged or infirmed relative, provided that adequate water, sewage, disposal and fire protection are available, and that tongue, undercarriage and axles remain intact on the unit. Undercarriage wheels and supporting base must be covered with a full ground length sign-obscuring skirting around the entire circumference of the manufactured home.	C
Home occupation, complying with the requirements of Section 16.69.020	P
Institutional/Utilities	
Public and semi-public buildings and functions	C
Public utility substations or other function	C
Cemeteries	C
Church, synagogue, temple or other place of worship	C
Public or private schools	C

Land Use	FU-10
Commercial daycare facilities	C
Other	
Agriculture and related activities, not to include the commercial processing for any type of agricultural products, whether animal or vegetable	P
Open space in a natural state	P
Fish and wildlife management programs	P
Public and private conservation areas and structures for the conservation of water, soil, forest, or other wildlife habitat resources	P
Private parks or recreation facilities	C
Temporary use of a trailer, mobile home, or other building for a use incidental to construction work; provided that: The maximum time period is six months, with a maximum extension for another six months; The trailer, mobile home, or other building is connected to an approved sewage disposal system; A building permit for a permanent structure has been issued; The temporary home or building shall be removed upon completion or abandonment of construction; and No reasonable alternative, such as the availability of nearby rental housing exists.	C
Personal use helicopter pads	C
Any accessory structure which is customarily incidental to any of the permitted uses, on the same lot	P

D. Development Standards. The development standards in Table 16.22.010-2 apply to all uses, structures, buildings, and development in the FU-10 District. The purpose of these dimensional standards is to:

1. Provide for fire safety and protection of all structures;

2. Provide for privacy and livability of dwellings and yard areas; and

3. Preserve, within urban growth boundaries, large parcels of land for future development at urban densities.

E. Adjustments to Dimensional Requirements. The dimensional standards in Table 16.22.010-2 may be modified under the procedures provided by Chapter 16.63. If the adjustment exceeds ten (10) percent of the applicable dimensional standard of this subsection, the matter shall be reviewed under the standards for a variance under Chapter 16.71. If the adjustment is less than ten (10) percent of the applicable dimensional standard of this subsection, the criteria shall be the purpose provisions of subsection (D)(1) through (3) of this section.

Table 16.22.010-2 Development Standards for FU-10

Standard	FU-10
Residential density (maximum)[1]	One unit for each 10 acres
Average lot size (minimum)	10 acres
Lot width (minimum)	100 feet
Lot depth (minimum)	200 feet
Lot coverage(maximum)	20% for all structures
Building setbacks (minimum)	
Front	32 feet
Side	12 feet
Rear	32 feet
Street side (corner lot)	15 feet
Building height (maximum)	45 feet[2]

NOTES:

[1] Density calculations shall be made pursuant to Section 16.63.020(F).

[2] The single-family residential building height maximum is forty-five (45) feet at the front elevation; side and rear elevations may not exceed forty-nine (49) feet.

16.22.020 Very low density residential zones.

A. Purpose.

1. Residential—Forty Thousand (40,000) Square Feet (R-40). This district reflects the first developmental step in the conversion of agricultural or open space land to residential purposes. Through benefit of available public services and faculties, land in this district is capable of supporting lower densities, yet constraints may still exist which would limit present and future carrying capacities. This district provides the transition to the more fully urban development of higher districts while expressing physical limitations on the potential of the land. The district may be applied in sloped areas where clustering and other hillside protection standards are applied. The numerical designation R-40 shall be interpreted to mean that the maximum density shall be one primary dwelling unit per forty thousand (40,000) square feet of lot area.

2. Residential—Twenty Thousand (20,000) Square Feet (R-20). This low density urban residential district responds to development patterns already established in the City and perpetuates those patterns in recognition of the potential for infilling and the overall carrying capacity of the land. Single-family detached dwellings on larger lots are encouraged in this district which seeks to maintain “elbow room and breathing space” within the urban framework of the City. This district is a buffer between the low density and undeveloped areas and the higher density, more typical urban residential districts. It is within this district that uses and standards begin to change to reflect the desired urban trends and patterns. The district may be applied in sloped areas where clustering and other hillside protection standards are applied. The numerical designation of R-20 shall be interpreted to mean that the maximum density shall be one primary dwelling unit per twenty thousand (20,000) square feet of lot area.

3. Residential—Fifteen Thousand (15,000) Square Feet (R-15). This low density urban residential district responds to the continuing urbanization of the City due to the availability of public sanitary sewers in areas previously zoned R-40 or R-20. Single-family detached dwellings are encouraged in this district which seeks to maintain "estate development" within the urban framework of the City. This district is a buffer between the densities allowed in the lower density R-20 district and the densities allowed in the medium density, more typical urban residential districts. The numerical designation of R-15 shall be interpreted to mean that the maximum density shall be one primary dwelling unit per fifteen thousand (15,000) square feet of lot area.

B. Permitted Uses. Table 16.22.020-1 identifies the land uses allowed in the R-40, R-20 and R-15 Districts.

Table 16.22.020-1 Very Low Density Residential (R-40, R-20, R-15) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	R-40	R-20	R-15
Residential			
One single-family dwelling, townhome, duplex, triplex, quadplex, cottage cluster, modular dwelling unit or manufactured home per lot[1]	P	P	P
Multiple family units or manufactured housing, approved as part of a PUD application pursuant to Section 16.63.130	P	P	P
Accessory dwelling units complying with Section 16.44.050	P	P	P
Temporary manufactured home to allow for care of an aged or infirmed relative, provided that adequate water, sewage, disposal and fire protection are available, and that tongue, undercarriage and axles remain intact on the unit. Undercarriage wheels and supporting base must be covered with a full ground length sign-obscuring skirting around the entire circumference of the manufactured home.	C	C	C
Residential care home	P	P	P
Residential care facilities	C	C	C
Home occupation as defined in Section 16.12.030, per the provisions of Section 16.69.020	P	P	P
Rooming houses	X	X	X
Commercial			
Commercial daycare facilities	C	C	C
Special event centers for hosting functions such as weddings, anniversary celebrations, corporate parties and similar events	C	C	C
Institutional/Utilities			
Public and semi-public buildings and functions	C	C	C
Public utility substations or other function	C	C	C

Land Use	R-40	R-20	R-15
Cemeteries	C	C	C
Church, synagogue, temple or other place of worship	C	C	C
Public or private school(s)	C	C	C
Other			
Agriculture and related activities, not to include the commercial processing of any type of agricultural products, whether animal or vegetable	P	P	P
Public or private open spaces, parks and playgrounds, tennis courts and similar outdoor recreational activity areas and recreational buildings, facilities and grounds, which include fully or partially enclosed structures for the primary or secondary use	P	P	P
Large scale recreational facilities such as golf courses, aquatic centers, aquariums, amusement parks and similar uses	C	C	C
Temporary use of a trailer, mobile home, or other building for a use incidental to construction work provided that: The maximum time period is six months, with a maximum extension for another six months; The trailer, mobile home, or other building is connected to an approved sewage disposal system; A building permit for a permanent structure has been issued; The temporary home or building shall be removed upon completion or abandonment of construction; and No reasonable alternative, such as the availability of nearby rental housing exists.	C	C	C
Wireless communication facilities, not to include antenna support structures, subject to the provisions of Section 16.44.020 of this title	C	C	C
Construction of new streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P	P	P
Helipad[1]	C	C	C
Any accessory structure which is customarily incidental to any of the permitted uses, located on the same lot	P	P	P
NOTES: [1]Subject to applicable FAA rules and regulations. [1]Applies to a parent lot. Duplexes, triplexes, quadplexes, and cottage clusters are not permitted on a child lot (i.e., previously subdivided lot from a Middle Housing Land Division).			

C. Development Standards. The development standards in Table 16.22.020-2 apply to all uses, structures, buildings, and development in the R-40, R-20 and R-15 Districts.

Table 16.22.020-2 Development Standards for R-40, R-20, R-15

Standard	R-40	R-20	R-15
Lot size (minimum): Single-family detached, duplex, triplex, quadplex, cottage cluster[1,6]	40,000 sq. ft.	20,000 sq. ft.	15,000 sq. ft.
Lot size (minimum): Townhome[1]	1,500 sq. ft.	1,500 sq. ft.	1,500 sq. ft.
Townhome density (units per net acre)	4.4 du/net acre	8.7 du/net acre	11.6 du/net acre
Lot width (minimum) [2,6]	100 feet	80 feet	70 feet
Lot depth (minimum)	200 feet	100 feet	90 feet
Street frontage (minimum)			
Lots fronting on cul-de-sac	70 feet	50 feet	50 feet
All other lots	100 feet	80 feet	60 feet
Townhomes	20 feet	20 feet	20 feet
Lot coverage (maximum) [3,6,7]	20%	30%	35%
Building setbacks (minimum) [6]:			
Front	22 feet	22 feet	22 feet
Rear	22 feet	22 feet	22 feet
Interior side	15/0[4] feet	10/0[4] feet	7/0[4] feet
Street side (corner lot)	15 feet	15 feet	15 feet
Cottage Cluster units, rear perimeter	10 feet	10 feet	10 feet
Cottage Cluster units, side perimeter	10 feet	10 feet	7 feet
Building height (maximum)	45 feet[2]		
Shared outdoor recreation areas	400 sq. ft./unit provided in accordance with Section 16.42.080		

NOTES:

[1] Density calculations shall be made pursuant to Section 16.63.020(F). Cottage clusters must meet a minimum density of four units per gross acre.

[2] Townhomes are exempt from the lot width requirements.

[3] Cottage cluster housing is exempt from lot coverage requirements.

[4] Interior side yard setbacks for townhomes may be reduced to zero in compliance with applicable sections of the adopted Uniform Building Code.

[5] The single-family residential building height maximum is forty-five (45) feet at the front elevation; side and rear elevations may not exceed forty-nine (49) feet.

[6] If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, per LDC 16.61, the development standards that are applicable to the lot shall apply to the middle housing parent lot, not to the middle housing child lot.

[7] Maximum lot coverage for townhomes is the greater of the percentage identified in the table or up to 1,000 square feet of buildings, decks, stairways and entry bridges that are more than thirty inches above grade (excluding eves). Compliance with all other standards is required.

16.22.030 Low density residential zones.

A. Purpose.

1. Residential—Ten Thousand (10,000) Square Feet (R-10). This urban residential district is a means by which the densities are increased to make efficient use of available facilities and services in an environment of single-family dwellings. Variations in dwelling types and lot sizes should provide for a necessary flexibility in the City which will prevent typical appearances created by the traditional subdivision of land. Standards in this district are strictly urban oriented and are designed to develop and perpetuate urban trends and patterns. The numerical designation R-10 shall be interpreted to mean that the maximum density shall be one primary dwelling unit per ten thousand (10,000) square feet of lot area.

2. Residential—Eight Thousand Five Hundred (8,500) Square Feet (R-8.5). This urban residential district responds to the continuing urbanization of the City. Single-family detached dwellings are encouraged, but multifamily development is allowed in this district, as part of a PUD, which seeks to maximize the development potential in hillside areas. This district serves as a buffer between the R-10 and R-7 development districts. The numerical designation of R-8.5 shall be interpreted to mean that the maximum density shall be one primary dwelling unit per eight thousand five hundred (8,500) square feet.

3. Residential—Seven Thousand (7,000) Square Feet (R-7). This development district will allow more urban residential density within the City through the use of small lots and a variation in dwelling types. Trends which were originated in lower density districts are continued and strengthened in this district and the patterns of the Comprehensive Plan are reinforced. Sanitary sewer and water are the most essential of urban services, but all Level I services and facilities are necessary and required for development at full density. The numerical designation R-7 shall be interpreted to mean that the maximum density shall be one primary dwelling unit per seven thousand (7,000) square feet of lot area.

B. Permitted Uses. Table 16.22.030-1 identifies the land uses that are allowed in the R-10, R-8.5 and R-7 Districts.

Table 16.22.030-1 Low Density Residential (R-10, R-8.5, R-7) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	R-10	R-8.5	R-7
Residential			

Land Use	R-10	R-8.5	R-7
One single-family dwelling, townhome, duplex, triplex, quadplex, cottage cluster, modular dwelling unit or manufactured home per lot[1]	P	P	P
Multiple-family units or manufactured housing, approved as part of a PUD application pursuant to Section 16.63.130	P	P	P
Multifamily dwellings not approved as a PUD. Density calculation as defined in Section 16.63.020 may be used where applicable	X	X	X
Accessory dwelling units complying with Section 16.44.050	P	P	P
Temporary manufactured home to allow for care of an aged or infirmed relative, provided that adequate water, sewage, disposal and fire protection are available, and that tongue, undercarriage and axles remain intact on the unit. Undercarriage wheels and supporting base must be covered with a full ground length sign-obscuring skirting around the entire circumference of the manufactured home.	C	C	C
Residential care home	P	P	P
Residential care facilities	C	C	C
Rooming houses	X	X	X
Manufactured home parks, subject to the provisions of Section 16.44.040	P	P	P
Home occupation as defined in Section 16.12.030, per the provisions of Section 16.69.020	P	P	P
Commercial			
Commercial daycare facilities	C	C	C
Special event centers for hosting functions such as weddings, anniversary celebrations, corporate parties and similar events	C	C	C
Institutional/Utilities			
Public utility substations or other function	C	C	C
Church, synagogue, temple or other place of worship	C	C	C
Public or private school(s)	C	C	C
Other			
Public or private open spaces, parks and playgrounds, golf courses, tennis courts and similar outdoor recreational activity areas and recreational buildings, facilities and grounds, which include fully or partially enclosed structures for the primary or secondary use	P	P	P
Large scale recreational facilities such as golf courses, aquatic centers, aquariums, amusement parks and similar uses	C	C	C
Temporary use of a trailer, mobile home, or other building for a use incidental to construction work provided that:	C	C	C

Land Use	R-10	R-8.5	R-7
The maximum time period is six months, with a maximum extension for another six months; The trailer, mobile home, or other building is connected to an approved sewage disposal system; A building permit for a permanent structure has been issued; The temporary home or building shall be removed upon completion or abandonment of construction; and No reasonable alternative, such as the availability of nearby rental housing exists.			
Wireless communication facilities, not to include antenna support structures, subject to the provisions of Section 16.44.020 of this title	C	C	C
Helipad[2]	C	C	C
Construction of new streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P	P	P
Any accessory structure which is customarily incidental to any of the permitted uses, located on the same lot	P	P	P

NOTE:

[1] Applies to a parent lot. Duplexes, triplexes, quadplexes, and cottage clusters are not permitted on a child lot (i.e., previously subdivided lot from a Middle Housing Land Division).

[2] Subject to applicable FAA rules and regulations.

C. Development Standards. The development standards in Table 16.22.030-2 apply to all uses, structures, buildings, and development in the R-10, R-8.5 and R-7 Districts.

Table 16.22.030-2 Development Standards for R-10, R-8.5 and R-7

Standard	R-10	R-8.5	R-7
Lot size (minimum): Single-family detached, duplex, triplex, quadplex, cottage cluster[1,6]	10,000 sq. ft.	8,500 sq. ft.	7,000 sq. ft.
Lot size (minimum): Townhome[1]	1,500 sq. ft.	1,500 sq. ft.	1,500 sq. ft.
Townhome density (units per net acre)	17.4 du/net acre	20.5 du/net acre	24.9 du/net acre
Lot width (minimum) [2,6]	60 feet	50 feet	50 feet
Lot depth (minimum)	80 feet	70 feet	70 feet
Street frontage (minimum) [6]			
Lots fronting on cul-de-sac	35 feet	35 feet	35 feet

Standard	R-10	R-8.5	R-7
All other lots	50 feet	50 feet	50 feet
Townhomes	20 feet	20 feet	20 feet
Lot coverage (maximum) [3,6,7] Single-family detached, duplex, triplex, quadplex, townhome	40%	45%	50%
Building setbacks (minimum) [6]:			
Front	22 feet	22 feet	22 feet
Rear	22 feet	22 feet	22 feet
Interior side	7/0[4] feet	5/0[4] feet	5/0[4] feet
Street side (corner lot)	15 feet	15 feet	15 feet
Cottage Cluster units, rear perimeter setback	10 feet	10 feet	10 feet
Cottage Clusters, side perimeter	7 feet	5 feet	5 feet
Building height (maximum)	45 feet[2]		
Shared outdoor recreation areas	400 sq. ft./unit provided in accordance with Section 16.42.080		

NOTES:

[1] Density calculations shall be made pursuant to Section 16.63.020(F). Cottage clusters must meet a minimum density of four units per gross acre.

[2] Townhomes are exempt from the lot width requirements.

[3] Cottage clusters are exempt from lot coverage requirements.

[4] Interior side yard setbacks for townhomes may be reduced to zero in compliance with applicable sections of the adopted Uniform Building Code.

[5] The single-family residential building height maximum is forty-five (45) feet at the front elevation; side and rear elevations may not exceed forty-nine (49) feet.

[6] If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, per LDC 16.61, the development standards that are applicable to the lot shall apply to the middle housing parent lot, not to the middle housing child lot.

[7] Maximum lot coverage for townhomes is the greater of the percentage identified in the table or up to 1,000 square feet of buildings, decks, stairways and entry bridges that are more than thirty inches above grade (excluding eves). Compliance with all other standards is required.

16.22.040 Medium density single-family residential zones.

A. Purpose.

1. Residential—Five Thousand (5,000) Square Feet (R-5). This development district will allow single-family (attached and detached) as well as duplexes, triplexes within the City. Sanitary sewer and water are the most essential of urban services, but all Level I services and facilities are necessary and required for development at full density. In this district, there is an average lot size of five thousand (5,000) square feet.

2. Mixed Use Residential—Single-Family (MUR-S). Mixed use residential will promote compact form, and residential and commercial or residential and office mixed vertically, in addition to across the district. Minimum densities are provided to comply with the Urban Growth Management Functional Plan, Title 1 requirements. MUR-S has a minimum density of six units per net acre and a minimum lot size of five thousand (5,000) square feet.

B. Permitted Uses Table 16.22.040-1 identifies the land uses that are allowed in the R-5 and MUR-S Districts.

Table 16.22.040-1 Medium Density Single-Family Residential (R-5 and MUR-S) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	R-5	MUR-S
Residential		
One single-family dwelling, townhome, duplex, triplex, quadplex, cottage cluster, or modular dwelling unit per lot[1]	P	P
Multiple-family units or manufactured housing, approved as part of a PUD application pursuant to Section 16.63.130. Density calculation as defined in Section 16.12.030 may be used where applicable.	P	P
Accessory dwelling units, complying with Section 16.44.050	P	P
Residential care home	P	P
Residential care facilities	C	C
Manufactured home parks subject to the provisions of Section 16.44.040	C	P
Rooming houses	X	X
Commercial		
Commercial daycare facilities	C	C
Home occupation as defined in Section 16.12.030, per the provisions of Section 16.69.020	P	P
Special event centers for hosting functions such as weddings, anniversary celebrations, corporate parties and similar events	C	C
Neighborhood Commercial Uses		
Coffee shops, cafés, sandwich shops and delicatessens, restaurants (no drive-through service allowed)	X	P[2, 3]
Florists	X	P[2, 3]
Grocery, food, specialty foods, and produce stores	X	P[2, 3]
Laundromats and dry cleaners	X	P[2, 3]

Land Use	R-5	MUR-S
Personal services (e.g., barbershops, hair salons, spas)	X	P[2, 3]
Yogurt and ice cream stores	X	P[2, 3]
Video rental stores	X	P[2, 3]
Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process	X	P[2, 3]
Institutional/Utilities		
Church, synagogue, temple or other place of worship	C	C
Public or private school(s)	C	C
Utility facilities (telecommunication, pump stations, substations)	C	C
Other		
Public or private open spaces, parks and playgrounds, tennis courts, and similar outdoor recreational activity areas and recreational buildings, facilities and grounds, which include fully or partially enclosed structures for the primary or secondary use	P	P
Large scale recreational facilities such as golf courses, aquatic centers, aquariums, amusement parks and similar uses	C	C
Wireless communications facilities not to include antenna support structures, subject to the provisions of Section 16.44.020 of this title	P/C	P/C
Helipad	X	X
Construction of new streets and roads including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P	P
Any accessory structure, which is, customarily incidental to any of the permitted uses, located on the same lot	P	P
Uses similar to those upon administrative determination by the Planning Official	P/C	P/C

NOTES:

[1] Applies to a parent lot. Duplexes, triplexes, quadplexes, and cottage clusters are not permitted on a child lot (i.e., previously subdivided lot from a Middle Housing Land Division).

[2] Neighborhood commercial uses subject to the provisions of Section 16.44.080.

[3] Neighborhood commercial uses are permitted within the Happy Valley Town Center Plan Area.

C. Development Standards. The development standards in Table 16.22.040-2 apply to all uses, structures, buildings, and development in the R-5, MUR-S Districts.

Table 16.22.040-2 Development Standards for R-5 and MUR-S

Standard	R-5	MUR-S

Lot size (minimum): Single-family dwelling detached, duplex, and triplex[1,8]	5,000 sf	5,000 sf
Lot size (minimum): Quadplex and cottage cluster[8]	7,000 sf	7,000 sf
Lot size (minimum): Townhome[1]	1,500 sf	1,500 sf
Townhome density (units / net acre)	25 du/net acre	25 du/net acre
Residential density (minimum)[1]	None	6 du/net acre
Lot width (minimum) [2]	40 feet	Variable[4]
Lot depth (minimum)	60 feet	Variable[4]
Street frontage (minimum) [8]		
Lots fronting on cul-de-sac	35 feet	Variable[4]
All other lots	40 feet	Variable[4]
Townhomes	20 feet	20 feet
Lot coverage (maximum) [5,8,9]		
Single-family (detached)	50%	Variable[6]
Duplex, triplex, quadplex, townhome	60%	Variable [6]
Building setbacks (minimum) [8]		
Front (street access garage)	20 feet	20 feet
Front (alley access garage)	10 feet	10 feet[4]
Rear	20 feet	20 feet[4]
Interior side	5/0 feet[3]	5/0 feet[3, 4]
Street side (corner lot)	8 feet	8 feet[4]
Cottage cluster units, perimeter rear	10 feet	10 feet
Cottage cluster units, perimeter side	10 feet	5 feet
Garage and carport entrances		
Entrances not facing an alley	20 feet	20 feet[4]
Entrances facing an alley	20 feet to base floor (foundation only, not including posts or other support mechanisms) 6 feet to upper floors (wall face)	20 feet to base floor (foundation only, not including posts or other support mechanisms) 6 feet to upper floors (wall face)[4]
Building height (maximum)	45 feet[6]	65 feet[6]
Shared outdoor recreation areas	400 sq. ft./unit provided in accordance with Section 16.42.080	
NOTES:		

[1] Density calculations shall be made pursuant to Section 16.63.020(F). Cottage clusters must meet a minimum density of four units per gross acre.

[2] Townhomes are exempt from the lot width requirements. Street frontage controls lot width for townhomes.

[3] Side yard setbacks for attached single-family residential may be reduced to zero in compliance with applicable sections of the adopted Uniform Building Code.

[4] Standards may be proposed for amendment by Master Plan, PUD or Design Review land use applications.

[5] Cottage cluster housing is exempt from lot coverage requirements.

[6] Pursuant to Section 16.42.030, twenty (20) percent of the net developable area must be usable open space.

[7] The single-family residential building height maximum is forty-five (45) feet at the front elevation; side and rear elevations may not exceed forty-nine (49) feet.

[8] If a duplex, triplex, fourplex, or cottage cluster has been divided by a middle housing land division, per LDC 16.61, the development standards that are applicable to the lot shall apply to the middle housing parent lot, not to the middle housing child lot.

[9] Maximum lot coverage for townhomes is the greater of the percentage identified in the table or up to 1,000 square feet of buildings, decks, stairways and entry bridges that are more than thirty inches above grade (excluding eves). Compliance with all other standards is required.

16.22.050 High density residential—Attached.

A. Purpose.

1. Single-Family Attached Residential (SFA). This district is intended to promote the livability, stability and improvement of Happy Valley's new neighborhoods and to provide opportunities for a variety of medium density residential housing types with a density range of ten (10) to fifteen (15) dwelling units per acre, as well as certain neighborhood commercial uses. The district is intended to:

a. Make efficient use of land and public services, and implement the Comprehensive Plan, by providing minimum and maximum density standards for housing.

b. Accommodate a range of housing needs, including owner-occupied and rental housing.

c. Provide for compatible building and site design at an appropriate neighborhood scale.

d. Reduce reliance on the automobile for neighborhood travel and provide options for walking and bicycling.

e. Provide direct and convenient access to schools, parks and neighborhood services.

2. Mixed Use Residential—Attached (MUR-A). Mixed use residential will promote compact form, and residential and commercial or residential and office mixed vertically, in addition to across the district. Minimum densities are provided to comply with the Urban Growth

Management Functional Plan, Title 1 requirements. MUR-A has a maximum density of fifteen (15) units per net acre and a minimum density of ten (10) units per net acre.

3. Village Townhouse District (VTH). This district is based on the Village Townhouse District in the Clackamas County Zoning and Development Ordinance. It was adopted by the City of Happy Valley to provide consistent land use regulations for areas recently annexed to the City.

a. A Traffic Impact Analysis (TIA) shall be submitted with each development application pursuant to the City's Traffic Impact Study Guidelines. The TIA shall address, but is not limited to, the following traffic management mechanisms: physical site controls on existing traffic, p.m. peak hour existing traffic limitations, traffic monitoring, restrictions on the number of parking spaces, transportation/transit information center; flextime, staggered working hours, car and van pool spaces, and similar ride share programs.

b. The procedures and application requirements under Chapter 16.63 (Design Review) and Article 16.4 (Community Design Standards) shall apply to all development in the Village Townhouse District. If language within these sections conflicts with specific requirements and standards of the village townhouse district, the standards within the village townhouse district shall prevail.

B. Permitted Uses. Table 16.22.050-1 identifies the land uses that are allowed in the SFA, MUR-A and VTH Districts.

Table 16.22.050-1 High Density Attached Residential (SFA, MUR-A, VTH) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	SFA	MUR-A	VTH
Residential			
Single-family detached dwellings (existing)	P	P	P[1]
Single-family detached dwellings (new)	X	X[8]	X
Single-family attached dwellings (townhouses, rowhouses)	P	P	P
Two-family dwelling (duplex)	P	P	P
Three-family dwelling (triplex)	P	P	P
Four-family dwelling (quadplex)	P	P	P
Cottage cluster dwellings	X	P	X
Multifamily dwellings containing four or more dwelling units or condominiums	X	X	X
Senior housing, congregate housing or nursing homes	X	P	X
Rooming houses	X	X	X
Accessory dwelling units (per Section 16.44.050)	P	P	P[2]
Home occupation (per Section 16.69.020)	P	P	P[3]
Bed and breakfast residencies	C	C	C

Land Use	SFA	MUR-A	VTH
Rental information offices	P	P	P[3]
Neighborhood Commercial Uses			
Coffee shops, cafés, sandwich shops and delicatessens, restaurants (no drive through service allowed)	P[4, 7]	P[4, 7]	X
Florists	P[4, 7]	P[4, 7]	X
Grocery, food, specialty foods, and produce stores	P[4, 7]	P[4, 7]	X
Laundromats and dry cleaners	P[4, 7]	P[4, 7]	X
Personal services (e.g., barbershops, hair salons, spas)	P[4, 7]	P[4, 7]	X
Yogurt and ice cream stores	P[4, 7]	P[4, 7]	X
Video rental stores	P[4, 7]	P[4, 7]	X
Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process	P[4, 7]	P[4, 7]	X
Commercial—Offices			
Professional and administrative offices	C[4]	C[4]	X
Medical and dental office, clinics and laboratories	C[4]	C[4]	X
Institutional/Utilities			
Churches, synagogues, temples or places of worship	C	C	C[5]
Private and public schools	C	C	C
Commercial daycare facilities	C	C	C
Utility facilities (telecommunication, pump stations, substations, utility carrier cabinets)	C	C	C
Other			
Public or private open spaces, parks and playgrounds, tennis courts and similar outdoor recreational activity areas and recreational buildings, facilities and grounds, which include fully or partially enclosed structures for the primary or secondary use	P	P	P[6]
New streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P	P	P
Wireless telecommunication facilities	P/C	P/C	P
Uses and structures customarily accessory and incidental to a primary use	P	P	P[3]
Temporary storage of recyclables/reuseables: The temporary storage within an enclosed structure of source-separated	P	P	P[3]

Land Use	SFA	MUR-A	VTH
recyclable/reusable materials generated and/or used on-site prior to on-site reuse or removal by the generator or licensed or franchised collector to a user or broker			
Temporary buildings for uses incidental to construction work subject to the provisions of Section 16.69.010—Such buildings shall be removed upon completion or abandonment of the construction work	P	P	P[3]
Bus shelters, bicycle facilities, street furniture, drinking fountains, kiosks, art works and other pedestrian and transit amenities	P	P	P[3]
Helipad	X	X	X
Uses similar to those upon administrative determination by the Planning Official	P/C	P/C	P/C

NOTES:

[1] Preexisting single-family dwellings and residential homes may be altered or expanded.

[2] Permitted as an accessory use and subject to the provisions of Section 16.22.050(D)(3).

[3] Permitted only as an accessory use.

[4] Neighborhood commercial use subject to the provisions of Section 16.44.080.

[5] Alteration or expansion of a religious facility which was lawfully established prior to July 1, 1993. The use shall not extend beyond the property which was under the ownership of, or occupied by, the preexisting religious facility and associated facilities prior to July 1, 1993.

[6] Public parks, playgrounds, recreational and community buildings and grounds, tennis courts, and similar recreational uses, all of a noncommercial nature, are permitted; provided that any principal building or swimming pool shall be located a minimum of thirty (30) feet from any other lot in a residential district.

[7] Neighborhood commercial uses are permitted within the Happy Valley Town Center Plan Area.

[8] Single-family detached units with a maximum floor area of two thousand (2,000) square feet are permitted in the MUR-A zone within the Happy Valley Town Center Plan Area.

C. Development Standards. The development standards in Table 16.22.050-2 apply to all uses, structures, buildings, and development in the SFA, MUR-A and VTH Districts.

Table 16.22.050-2 Development Standards for SFA, MUR-A and VTH Districts

Standard	SFA	MUR-A	VTH
Residential density (maximum)[1]	15 du/net acre[2]	15 du/net acre[2]	2,000 sf/primary unit[9]
Residential density (minimum)[1]	10 du/net acre[2]	10 du/net acre	3,000 sf/primary unit[9]
Lot size (minimum)	2,000 sf	3,000 sf[9]	2,000 sf
Lot width (minimum)	None	None	None
Lot depth (minimum)	None	None	None

Standard	SFA	MUR-A	VTH
Lot coverage (maximum)	75%[12]	75%[12]	65%
Lot landscaping (minimum)	15%[7]	15%[7]	25%
Setbacks (minimum):			
Front	10 feet[3]	10 feet[3]	10 feet[10, 11]
Rear	15 feet[3, 4]	15 feet[3, 4]	15 feet[10, 11]
Interior side	5 feet[3, 4, 5]	5 feet[3, 4, 5]	5 feet[5, 10]
Street side	8 feet[3]	8 feet[3]	5 feet[10, 11]
Garage and carport entrances			
Entrances not facing an alley	20 feet	20 feet	20 feet[10]
Entrances facing an alley	20 feet to base floor (foundation only, not including posts or other support mechanisms) 6 feet to upper floors (wall face)	20 feet to base floor (foundation only, not including posts or other support mechanisms) 6 feet to upper floors (wall face)	
Between groupings of residential buildings on the same lot	10 feet	10 feet	10 feet
Setback (maximum from street right-of-way or designated accessway)	None	None	18 feet
Building height (maximum)	45 feet[8]	65 feet[8]	35 feet
Shared outdoor recreation areas	400 sq. ft./unit provided in accordance with Section 16.42.080		

NOTES:

[1] Density calculations shall be made pursuant to Section 16.63.020(F). Cottage clusters must meet a minimum density of four units per gross acre.

[2] Residential care homes/facilities, duplexes, triplexes, quadplexes, cottage clusters, and accessory dwellings are exempt from the density standards. Townhouses may have a maximum density of 25 units/acre.

[3] The minimum front, rear, side and street side building setbacks for public and institutional uses in the SFA district is twenty (20) feet. Cottage clusters shall have a perimeter setback of 10 feet in the MUR-A zone.

[4] Where the SFA district abuts lower density residential districts, the abutting yards shall have a ten (10)-foot landscaped buffer area.

Standard	SFA	MUR-A	VTH
[5] Side yard building setbacks for attached single-family (townhouse) may be reduced to zero in compliance with applicable sections of the adopted Uniform Building Code.			
[7] Pursuant to Section 16.42.030, twenty (20) percent of the gross developable area of the greater development project must be usable open space—the fifteen (15) percent landscaping standard is applicable to individual lots. [8] Maximum building height for single-family detached/attached is forty-five (45) feet at the front elevation; side and rear elevations may not exceed forty-nine (49) feet in height. [9] Each lot for an attached single-family (townhome) dwelling in the SFA and VTH zones shall have a minimum size of two thousand (2,000) square feet and a maximum size of three thousand (3,000) square feet, or each lot shall have a minimum size of two thousand (2,000) square feet and the average size of all lots shall not exceed two thousand five hundred (2,500) square feet. Each lot for a townhouse in the MUR-A zone shall have a minimum size of one thousand and five hundred (1,500) square feet and no maximum lot size. Lots created for congregate care facilities, two- and three-family dwellings, or multifamily dwellings are not subject to minimum, maximum, or average lot size standards. However, the density provisions of Section 1012 are applicable. A new lot created for a preexisting single-family dwelling shall have a minimum lot size of three thousand (3,000) square feet, and a maximum lot size of five thousand (5,000) square feet. A lot created for a preexisting dwelling shall not be included in the gross site area used to determine the maximum density for the remaining lot. [10] Preexisting dwellings and their accessory structures shall comply with the Clackamas County VR-4/5 setback standards. [11] On a corner lot, one of the required front yard building setbacks may be reduced to eight feet when abutting a local or connector street. Awnings, porches, bays, and overhangs may extend up to four feet into this setback. [12] Lot coverage maximum for existing, or where allowed, proposed single-family detached units is fifty (50) percent. Maximum lot coverage does not apply to cottage clusters.			

D. Special Standards for Certain Uses.

1. Special Standards for Public and Institutional Uses.
    a. Minimum Setbacks.
        i. Front. Twenty (20) feet.
        ii. Rear. Twenty (20) feet.
        iii. Side. Twenty (20) feet.
        iv. Street Side. Twenty (20) feet.
2. Attached Single-Family Dwellings in the VTH District.
    a. Configuration and Façades.
        i. Attached single-family dwellings shall orient to and line streets with a series of attached "rowhouse" units.
        ii. Front façades shall be designed with balconies and/or bays. Façades facing a street right-of-way or designated accessway shall not consist of a blank wall.

iii Window trim shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb, head, and sill.

b. Entries and Porches.

i. Primary entries shall be accessed directly from a street right-of-way and must be visible from the street.

ii. Porches are required for each unit and must be located immediately adjacent to the primary entry. Porches must cover a minimum of fifty (50) percent of the primary façade (not including the garage) with a minimum net depth of six feet.

c. Roofs. Hipped, gambrel, or gabled roofs are required. Flat roofs are prohibited.

3. Accessory Structures in the VTH District. The following standards apply to accessory structures:

a. A maximum of two accessory structures, including one accessory dwelling unit, may be permitted on a lot.

b. An accessory structure and its projections shall be detached and separated from other structures by a minimum of three feet.

c. Only one accessory structure per lot may exceed one hundred (100) square feet in area.

d. Accessory structures greater than one hundred (100) square feet in area shall comply with the following requirements:

i. The accessory structure shall be constructed with similar exterior building materials as that of the primary dwelling.

ii. The square footage of the ground floor of the accessory structure shall not exceed either five hundred (500) square feet or the square footage of the ground floor of the primary dwelling, whichever is less. An accessory dwelling unit shall not exceed five hundred (500) square feet in size.

iii. The detached accessory structure shall have a maximum building height of twenty-five (25) feet or the building height of the primary dwelling, whichever is less.

e. The front yard setback shall be no less than the front façade of the primary dwelling unit (not including porches, bays, garages, and architectural features). Garages shall comply with the front yard setback standards of Clackamas County ZDO Subsection 1604.06(F).

f. No side or rear yard setback shall be required for any detached accessory structure that is one hundred (100) square feet or less in area and does not exceed a height of feet.

g. For structures that exceed one hundred (100) square feet in area or eight feet in height, rear and side yard setbacks shall be as follows, except where a rear or side lot line is adjacent to a street, pedestrian path, sidewalk, or accessway, in which case a minimum setback of five feet is required:

i. For structures greater than eight feet and up to twenty (20) feet in height, the minimum side yard setbacks shall be zero on one side and three feet on the other side. The minimum rear yard setback where the rear property line abuts an alley

shall be six feet. The minimum rear yard setback where the rear property line does not abut an alley shall be three feet.

ii. For structures greater than twenty (20) feet in height, the minimum side yard setbacks shall be zero on one side and five feet on the other side. The minimum rear yard setback where the rear property line abuts an alley shall be six feet, except that a second-level accessory dwelling unit may cantilever up to four feet. The minimum rear yard setback where the rear property line does not abut an alley shall be five feet.

4. Garages in the VTH District.

a. A minimum of one off-street parking space shall be located in a garage and no required parking or loading space shall be used for storing a recreational vehicle, camper, or boat.

b. A detached garage may be placed at the rear of a lot.

c. A front-access garage attached to the dwelling structure shall be recessed a minimum of two feet behind the front façade (not including porches, bays, and architectural features) and a minimum of twenty (20) feet from the street right-of-way.

d. A minimum two-foot deep trellis or bay window shall be placed above the garage opening. The trellis shall extend the full width of the garage, and the bay window shall be a minimum of eight feet in width.

e. If located in the front, the garage opening and the driveway shall not exceed a width of ten (10) feet.

f. If an alley adjoins a lot, then garage access from the street is prohibited.

5. Fences and Sight-Obscuring Plantings in the VTH District.

a. Fences and sight-obscuring plantings shall comply with intersection sight distance requirements.

b. The maximum height of a fence or sight-obscuring planting shall be six feet along the side and rear yards behind the front building line, and four feet forward of the front building line.

6. Manufactured Dwelling Parks in the VTH District.

a. Existing manufactured dwelling parks shall not be redeveloped with a different use until a plan for relocation of the existing tenants is submitted and approved by the Planning Official or designee.

7. Variances. The requirements of this section may be modified pursuant to Chapter 16.71.

16.22.060 Mixed use residential—Multifamily (MUR-M and MUR-X).

A. Purpose.

1. Mixed use residential will promote compact form, and residential and commercial or residential and office mixed vertically, in addition to across the district. The multifamily sub-area provides for a range of densities, each of which should be shown on the master plan map. The multifamily sub-areas allow for retail uses that are meant to provide services to local

residents, not attract outside traffic. The density requirements and minimum/maximum lot sizes are meant as a guide, and will vary based on the amount of unbuildable lands removed from gross acres. The density is calculated by averaging density for the residential district area identified in the master plan. Therefore, some lots may be smaller than the lot sizes given below. Minimum densities are provided to comply with the Urban Growth Management Functional Plan, Title 1 requirements.

2. MUR-X Mixed Use Buildings with Residential Emphasis. Residential and retail combinations with the primary use of the building being residential. Permitted commercial uses shown on Table 16.22.060-1.

B. Permitted Uses. Table 16.22.060-1 identifies the land uses that are allowed in the MUR-M and MUR-X Districts.

Table 16.22.060-1 Mixed Use Residential—Multifamily (MUR-M and MUR-X) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	MUR-M Multifamily	MUR-X Mixed Buildings
Residential		
Single-family detached dwellings	X	X
Attached dwellings, (townhouses, attached duplex, rowhouses)	P	P
Multifamily dwellings		
Low	P	P
Medium	P	P
High	P	P
Senior housing	P	P
Skilled nursing facility	C	C
Congregate housing	C	C
Rooming houses	X	X
Accessory dwelling units (per Section 16.44.050)	X	X
Home occupation (per Section 16.69.020)	P	P
Neighborhood Commercial Uses		
Coffee shops, cafés, sandwich shops and delicatessens, restaurants (no drive-through service allowed)	P[1]	
Florists	P[1]	
Grocery, food, specialty foods, and produce stores	P[1]	
Laundromats and dry cleaners	P[1]	
Personal services (e.g., barbershops, hair salons, spas)	P[1]	
Yogurt and ice cream stores	P[1]	
Video rental stores	P[1]	

Land Use	MUR-M Multifamily	MUR-X Mixed Buildings
Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process	P[1]	
Commercial—Retail Uses		
Art and craft supply stores, studios		P
Bakeries		P
Banks, savings and loan associations, loan companies, ATM (not drive-in or drive-through)		P
Bicycle sales, supplies, repair service		P
Book stores		C
Coffee shops, cafés, sandwich shops and delicatessens (no drive-through service allowed)		P
Drug stores		P
Dry cleaners and tailors		P
Florists		P
Gift stores		P
Grocery, food, specialty foods, and produce stores		P
Hotels		P
Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities		C
Interior decorating shops, sales and service		P
Laundromats		P
Marijuana retailing	X	X
Music shops, sales and service		P
Optometry and optical goods, sales and service		P
Personal services (e.g., barbershops, hair salons, spas)		P
Photo finishing, photography studios		P
Post offices		P
Rental stores, without outdoor storage		P
Restaurants, full service		C
Shoe sales and repair stores		P
Sporting goods, sales and service		P

Land Use	MUR-M Multifamily	MUR-X Mixed Buildings
Stationery stores		P
Taverns, bars and cocktail lounges (1,500 feet from school uses, public parks and churches)		C
Yogurt and ice cream stores		P
Video rental stores		C
Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process		P[2]
Commercial—Offices		
Professional and administrative offices	C[1]	P
Medical office buildings	C[1]	P
Institutional		
Churches, synagogues, temples or places of worship	C	C
Public park, usable open space	C	C
Private and public schools (includes day care)	C	C
Other		
Utility facilities (telecommunication, pump stations, substations)	C	C
Helipad	X	X
Marijuana processing, production and wholesaling	X	X
New streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P	P
NOTES: [1] Neighborhood commercial use subject to the provisions of Section 16.44.080. [2] Where scale and trip generation are compatible with residential development.		

C. Development Standards. The development standards in Table 16.22.060-2 apply to all uses, structures, buildings, and development in the MUR-M and MUR-X Districts.

Table 16.22.060-2 Development Standards for MUR-M1, MUR-M2 and MUR-M3 Districts

Standard	MUR-M1	MUR-M2	MUR-M3
Residential density (maximum)[1]	24 du/net acre	34 du/net acre	50 du/net acre
Residential density (minimum)[1]	15 du/net acre	25 du/net acre	35 du/net acre
Lot size (minimum)	Variable[2]	Variable[2]	Variable[2]
Lot width (minimum)	Variable[2]	Variable[2]	Variable[2]
Lot depth (minimum)	Variable[2]	Variable[2]	Variable[2]

Lot coverage (maximum)	Variable[2, 3]	Variable[2, 3]	Variable[2, 3]
Landscaping (minimum)	Variable[3]	Variable[3]	Variable[3]
Building setbacks (minimum)	Variable[2]	Variable[2]	Variable[2]
Building height (maximum)	65 feet[4]	65 feet[4]	65 feet[4]

NOTES:

[1] Density calculations shall be made pursuant to Section 16.63.020(F).

[2] Standards are flexible and shall be determined through the master plan process or design review application.

[3] Pursuant to Section 16.42.030, twenty (20) percent of the net developable area must be usable open space.

[4] Building height is measured pursuant to Chapter 16.12 Definitions. Maximum building height for single-family (attached) is forty-five (45) feet at the front elevation; the building height may not exceed forty-nine (49) feet at the side and rear elevations.

Chapter 16.23 COMMERCIAL AND EMPLOYMENT DISTRICTS

16.23.010 Mixed Use Commercial and Employment Districts.

A. Purpose.

1. Mixed Use Commercial (MUC). Mixed use commercial will provide for convenience commercial needs of residential neighborhoods and office workers in locations adjacent to and mixed in with residential and office areas. The location of services and offices near residential units and major transportation networks should promote use of alternative modes of transportation such as bus ridership, bicycle and pedestrian activity. Retail uses should be primarily located on the ground floor to encourage an interesting and active streetscape. Buildings should be oriented toward the street or accessway with clearly marked entrances. Blank frontage walls at street level are discouraged. Development boundaries and patterns are not defined by type of use (i.e., retail and office); instead the district allows a variety of permitted uses to occur throughout the commercial district. The commercial uses are meant to provide a concentration of commercial and office uses to create an active area.

2. Mixed Use Employment (MUE). The mixed use employment district will provide for development of office, employment and low density multifamily residential uses. The MUE neighborhood commercial subdistrict provides for neighborhood scale retail needs.

3. Regional Center Mixed Use (RCMU). The regional center mixed use district will provide for urban development within the boundaries of the Clackamas Regional Center. A wide range of uses is permitted within the district. The district is intended to create a quantifiable sustainable mixed use area with high employment and housing densities, structured parking, and significant amenities in an urban design that is accessible by a range of transportation modes. To ensure that the mix of uses and urban form are consistent with the objectives of the district, master plan approval is required prior to development. The RCMU District implements the planned mixed use policies of the Clackamas Regional Center Area Design Plan.

B. Permitted Uses. Table 16.23.010-1 identifies the land uses that are allowed in the MUC, MUE and RCMU Districts.

Table 16.23.010-1 Mixed Use Districts (MUC, MUE, RCMU) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Use	MUC	MUE	RCMU[1]
Commercial—Retail Uses			
Art and craft supply stores, studios	P	P	P
Bakeries	P	P	P
Banks, savings and loan associations, loan companies, ATMs	P	P	P
Barber shops, beauty salons	P	P	P
Bed and breakfast inns	P	P	P
Bicycle sales, supplies, repair service	P	P	P
Book stores	P	P	P
Camera stores	P	P	P
Coffee shops, cafés, sandwich shops and delicatessens	P	P	P
Drug stores	P	P	P
Dry cleaners and tailors	P	P	P
Florists	P	P	P
Hardware and garden supplies	P	P	P
Home furnishing stores	P	P	P
Gift stores	P	P	P
Grocery, food, specialty foods, and produce stores	P	P	P
Hotels	P	P	P
Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities	P	P	P
Exercise and tanning studios	P	P	P
Interior decorating shops, sales and service	P	P	P
Laundromats	P	P	P
Marijuana retailing	P[6]	P[6]	X
Music shops, sales and service	P	P	P
Mobile food units	P[5]	P[5]	P[5]
Optometry and optical goods, sales and service	P	P	P
Photo finishing, photography studios	P	P	P
Rental stores, without outdoor storage	P	P	P

Use	MUC	MUE	RCMU[1]
Restaurants full service	P	P	P
Restaurants—Drive-through	P	C	P
Apparel and secondhand stores	P	P	P
Shoe sales and repair stores	P	P	P
Sporting goods, sales and service	P	P	P
Stationery stores	P	P	P
Taverns, bars and cocktail lounges (prohibited 1,500 feet from school uses)	C	C	C
Theaters or assembly halls	C	C	P
Yogurt and ice cream stores	P	P	P
Vehicular service/fueling stations	P	P	P
Veterinarian services and pet supplies	P	P	P
Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process	P	P	P
Commercial—Offices			
Professional and administrative offices	P	P	P
Medical office buildings	P	P	P
Residential			
Low density multifamily	P[2, 3]	P	P
Medium density multifamily	P[2, 3]	X	P
High density multifamily	P[2, 3]	X	P
Senior housing	P	P	P
Skilled nursing facility	P	P	P
Congregate housing	P	P	P
Home occupation (Section 16.69.020)	P	P	P
Industrial			
Manufacturing and production	X	P	C
Industrial services	X	P	X
Flex-space	X	P	X
Marijuana processing, production and wholesaling	X	X	X
Wholesale sales	X	P	X
Institutional			

Use	MUC	MUE	RCMU[1]
Churches, synagogues, temples or places of worship	C	C	P
Public park, usable open space	C	C	P
Public and private schools (includes day care)	C	C	P
Commercial day care centers (adult and child care facilities)	P	P	P
Community service	P	P	P
Hospitals, including helipads[4]	P	C	P
Civic Uses			
Libraries, post offices, community centers, etc.	P	P	P
Other			
Construction of new streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P	P	P
Self-storage facilities	P[7]	X	X
Wireless communication facilities	Per Section 16.44.020	Per Section 16.44.020	Per Section 16.44.020

NOTES:

[1] Uses in the RCMU district are subject to additional standards in Section 16.23.010(D).

[2] Residential uses on upper floors of mixed use buildings are permitted. In such cases, Note 3 below does not apply.

[3] Freestanding residential uses at densities greater than the minimum SFA density of ten (10) du/acre and not to exceed the maximum MUR-M2 density of thirty-four (34) du/acre (ten (10) to thirty-four (34) du/acre) may be permitted in the MUC zone when nonresidential uses occupy the street side(s) of the parcel. The footprint of such freestanding residential uses (including associated parking and accessory uses) may not exceed twenty-five (25) percent of the MUC zoned area of the parcel or subject property.

[4] Subject to applicable FAA rules and regulations.

[5] Pursuant to Section 16.69.030.

[6] Pursuant to Chapter 16.49.

[7] Self-storage facilities shall be limited to a single vertical mixed-use building with office or commercial uses on the ground floor facing the higher classification roadway and where individual storage units are only accessed from within the building and are constructed within a single structure. Not more than one self-storage facility, limited to eighty thousand (80,000) square feet of gross floor area, shall be permitted within the MUC zone, and only on lots or parcels at the intersection of a major arterial facility and a local facility or higher classification.

C. Development Standards. The development standards in Table 16.23.010-2 apply to all uses, structures, buildings, and development in the MUC, MUE and RCMU Districts.

Table 16.23.010-2 Development Standards for MUC, MUE and RCMU Districts

Standard	MUC	MUE	RCMU
Residential density:[1]			
Low density (maximum)	24 du/net acre	24 du/net acre	24 du/net acre
Low density (minimum)	15 du/net acre[2]	15 du/net acre[2]	15 du/net acre[2]
Medium density (maximum)	34 du/net acre	NA	34 du/net acre
Medium density (minimum)	25 du/net acre[2]	NA	25 du/net acre[2]
High density (maximum)	50 du/net acre	NA	50 du/net acre
High density (minimum)	35 du/net acre[2]	NA	35 du/net acre[2]
Lot size (minimum)	Variable[3]	Variable[3]	Variable[3]
Lot width (minimum)	Variable[3]	Variable[3]	Variable[3]
Lot depth (minimum)	Variable[3]	Variable[3]	Variable[3]
Floor area ratio			
Nonresidential FAR (minimum)	0.25:1[4]	0.25:1[4]	0.25:1[4]
Nonresidential FAR (maximum)	5:1	2:1	5:1
FAR for mixed use building with residential uses (minimum)	0.25:1	0.25:1	0.25:1
FAR for mixed use building with residential uses (maximum)	5:1	3:1	5:1
Landscaping (minimum)	Variable[5]	Variable[5]	Variable[5]
Building setbacks (minimum)	Variable[3]	Variable[3]	Variable[3]
Building height (maximum)	65 feet[3]	65 feet[3]	Variable[3]

NOTES:

[1] Density calculations shall be made pursuant to Section 16.63.020(F).

[2] Minimum density of eighty (80) percent of each sub-area is required.

[3] Building height is measured pursuant to Chapter 16.12, Definitions. Standards are flexible and shall be determined through the master plan process or a design review.

[4] Must include a shadow plan to establish future development.

[5] Pursuant to Section 16.42.030, fifteen (15) percent of the net developable area must be usable open space.

D. Additional Standards for the RCMU District.

1. Location. The RCMU District may only be located within the boundaries of the Clackamas Regional Center and may only be applied to land within the Eagle Landing Plan Area (areas designated RCMU and PMU6) as designated on Happy Valley Comprehensive Plan Map X-CRC-2.

2. Master Plan Required.

a. The RCMU District is a planned mixed use area and is subject to the master plan requirements of Chapter 16.65 except as modified by this section.

b. A master plan shall be required for development of any land within the Eagle Landing Plan Area (areas designated RCMU and PMU 6) as designated on Happy Valley Comprehensive Plan Map X-CRC-2.

3. Mix of Uses Required. A mix of uses is required. At a minimum, the following uses shall be accommodated within the Eagle Landing Plan Area:

a. Five hundred eighty-four (584) dwelling units within the Eagle Landing Plan Area.

b. Six hundred thousand (600,000) square feet of office or commercial development within the RCMU District.

4. Phasing Plan. For multi-phased developments where the required mix of uses is proposed to be achieved in phases, a Development Phasing Plan shall be submitted as a part of a master plan application.

a. The Development Phasing Plan shall demonstrate:

i. How the required mix of uses will be provided through phasing, including the approximate locations, amount in square feet (a size range may be provided), and timing of each use.

ii. How on-site circulation, parking, landscaping and other on-site improvements will function, after the completion of each phase and following complete build-out of the development site.

iii. If a size range(s) for a use(s) is provided, the Development Phasing Plan shall demonstrate how both the minimum and maximum amounts enabled by the range meet the requirements of this section.

b. The Development Phasing Plan shall also identify in what order and how proposed public utilities, public facilities and other improvements and amenities necessary to support the project will be constructed, dedicated or reserved.

5. Development Standards. A master plan for development within the Eagle Landing Plan Area shall be designed to implement the policies and elements of the adopted Clackamas Regional Center Area Design Plan.

In addition, a master plan and subsequent development within the RCMU District shall be subject to the following standards:

a. Buffering. When existing residential uses are located adjacent to a RCMU master plan site, such uses shall be buffered from an RCMU master plan site with landscaped buffers or by the location of streets, parks, plazas, greenways, or lower density residential uses in an RCMU master plan.

b. Access and Circulation. Circulation on site must meet the minimum requirements shown on the Urban Design Elements map, and in addition:

i. Internal Circulation. An internal circulation system shall include a network of public, private and internal streets. Private streets shall function like local streets, with curbs, sidewalks or raised walking surfaces on both sides, street trees, pedestrian scale lighting, and connections to state, county or public streets. This internal street network shall create developable sites defined by streets. In addition, the internal circulation system may include a range of secondary facilities, including service roads, driveways, drive aisles, and other similar facilities. The overall intent is to provide a pattern of access and circulation that provides a clear and logical network of primary streets that have pedestrian orientation and amenities. A secondary network of pedestrian ways and vehicular circulation will supplement this system.

ii. Driveways. Internal driveways shall not be located between buildings and the streets to which building entrances are oriented.

iii. On-Street Parking. Parking in the travel way may be provided on private or internal streets. This parking will not count as surface parking under the maximum parking ratio requirements of Section 16.43.030, but may be counted toward minimum parking requirements.

iv. Off-Street Paths. The internal circulation system may provide for off-street bicycle paths, pedestrian paths, and greenway paths to link civic spaces, retail centers, and neighborhoods.

c. Pedestrian-Oriented Areas. A master plan shall include pedestrian-oriented areas which do not front solely on arterial streets and parking fields. The purpose of this standard is to enhance the pedestrian experience and "village feel" of the centers. As part of a master plan review, applicants shall demonstrate compliance with this standard by using a combination of the following, or similar, concepts and guidelines:

i. Provision of a "main street" and/or village center area that is framed by buildings oriented to both sides of the street or center.

ii. On-street parking.

iii. Storefront character, with entries oriented to the street, large display windows, and front façades broken into divided bays.

iv. Public plazas and promenades.

v. Strong corners, as described in Happy Valley Style Architectural Design Standards.

vi. Residential uses on upper stories.

vii. Public uses in prominent locations.

d. Building Height. Permitted minimum and maximum building heights shall be established by an approved master plan for all subsequent development. Building heights should emphasize creating a compact urban form in a context-sensitive and sustainable manner.

e. Building Orientation. New buildings shall have at least one public entrance oriented to a state, county, public, or private street. Buildings shall have first floor windows with views of internal activity or display cases, and the major entrance on the building façade facing the street the building is oriented to. Additional major entrances may also be allowed facing minor streets and parking areas.

f. Structured Parking Adjacent to Pedestrian Facilities. Parking structures located within twenty (20) feet of pedestrian facilities including public or private streets, pedestrian ways, greenways, a transit station or shelter, or plaza, shall provide a quality pedestrian environment on the façade facing the pedestrian facility. Techniques to use include, but are not limited to:

i. Provide retail, office or similar uses on the ground floor of the parking structure with windows and activity facing the pedestrian facility; or

ii. Provide architectural features that enhance the first floor of the parking structure adjacent to the pedestrian facility, such as building articulation, awnings, canopies, building ornamentation, and art; or

iii. Provide pedestrian amenities in the transition area between the parking structure and the pedestrian facility, including landscaping, trellises, trees, seating areas, kiosks, water features with a sitting area, plazas, outdoor eating areas, and drinking fountains;

iv. The above listed techniques and features, and others of similar nature, must be used so that blank walls are not created.

g. Parking and Loading. Parking and loading shall meet the requirements of Chapter 16.43 and the landscaping requirements of Chapter 16.42.

h. Drive-Through Window Facilities. Drive-through window facilities are allowed subject to the standards in Section 16.44.090.

i. Gateways. Provide for a gateway at a key intersection with special design and landscape treatment that are intended to provide a visual announcement that people are entering a special area.

j. Public Facilities. The city may require the provision of, or participation in, the development of public facility improvements to implement the Clackamas Regional Area Plan. Such improvements include, but are not limited to, the following:

i. Road dedications and improvements;

ii. Traffic signals;

iii. Transit facilities;

iv. Sidewalks, crosswalks, bump-outs and other pedestrian improvements;

v. Storm drainage facilities;

vi. Sewer and water service lines and improvements;

vii. Underground utilities;

viii. Street lights;

ix. Street trees, landscaping; and

x. Open space, greenways, plazas and parks.

k. Maintenance Mechanisms. The city may require the formation of a maintenance agreement or other suitable mechanism to assure that the following maintenance responsibilities are adequately addressed:

i. To improve, operate, and maintain common facilities, including open space, landscaping, parking and service areas, streets, recreation areas, signing, and lighting.

ii. To maintain landscaping, street furniture, storm drainage and similar streetscape improvements developed in the public right-of-way.

l. Open Space. A master plan shall contain a minimum of ten (10) percent useable open space. Open space shall be integral to the master plan. Plans shall emphasize public gathering places such as plazas, neighborhood parks, trails, and other publicly accessible spaces that integrate land use and transportation and contribute toward a sense of place. Where public or common private open space is designated, the following standards apply:

i. The open space area shall be shown on the final plan and recorded with the final plat or separate instrument; and

ii. The open space shall be conveyed in accordance with one of the following methods:

(A) By dedication to a public agency as publicly owned and maintained open space. Open space proposed for dedication must be acceptable to the planning official with regard to the size, shape, location, improvement, environmental condition;

(B) By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity. The terms of such lease or other instrument of conveyance must include provisions (e.g., maintenance, property tax payment, etc.) suitable to the city.

m. Other Applicable Provisions. With respect to the adjacent properties lying south of the proposed RCMU District and east of SE Stevens Road ("Adjacent Properties"), the provisions of the following Clackamas County land use decisions, including conditions of approval, which benefit the adjacent properties and apply or relate to buffering, required setbacks, drainage, and location of any bicycle and pedestrian path, shall remain in effect. The master plan and subsequent development within the RCMU District shall comply with those provisions.

i. Comprehensive Plan and Zone Change, File Nos. Z0531-98-CP/Z0532-98-Z, dated December 23, 1998;

ii. Modification of Conditions of Approval of Comprehensive Plan Amendment and Zone Change, Order No. 2203-29, File No. Z0802-02-CP, Z0803-02-Z, dated February 20, 2003;

iii. Decision on Master Plan Review, File No. Z0227-03-AA (Eagle Landing), dated May 29, 2003;

iv. Final Order for Eagle Landing Golf Clubhouse, Case No. Z0840-03-SL, dated February 25, 2004;

v. Final Plat Approval for Eagle Landing PUD as evidenced by the Plat of Eagle Landing filed in Plat Book 126, Page 018, Document No. 2004 60414; and

vi. Final Order on Remand Approving Mt. Scott Village (now known as Eagle Landing Phase II), File No. Z0563-99-SL, dated April 23, 2003.

n. Design Review. New development in the district shall be subject to Chapter 16.62, Design Review (including Section 16.46.010 and Appendix B, Happy Valley Style).

16.23.020 Village Commercial and Village Office Districts.

A. Purpose.

1. Village Commercial District (VC). This section provides for a mixture of retail/office, commercial and business park uses. These uses are located in areas where suitable services and facilities are currently provided or can be provided as development occurs. In addition, this district allows for pedestrian friendly development with good connections via the sidewalks, trails and street system from residential areas to parks, open spaces, commercial and office uses.

2. Village Office District (VO). This section provides for a mixture of retail/office, commercial and business park uses. These uses are located in areas where suitable services and facilities are currently provided or can be provided as development occurs. In addition, this district allows for pedestrian friendly development with good connections via the sidewalks, trails and street system from residential areas to parks, open spaces, commercial and office uses.

B. Permitted Uses. Table 16.23.020-1 identifies the land uses allowed in the VC and VO Districts.

Table 16.23.020-1 Village Office and Village Commercial (VO and VC) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	VO	VC
Residential		
Pre-existing dwellings. Pre-existing dwellings may be allowed to remodel or expand and shall not be subject to the provisions of Chapter 16.72	P	P
Multifamily dwellings or residential uses on upper floors of mixed use buildings	X	P
Commercial—Retail Uses		
Antique and secondhand store	X	P
Art supply stores	X	P
Bakery	X	P
Bank teller, but not drive-in or drive-through service	P	P
Banks, credit unions, savings and loan, brokerage, and other financial institutions, including drive-thru facilities	C	C

Land Use	VO	VC
Barber shop, beauty salon	X	P
Bars and cocktail lounge/tavern with OLCC IV or IV-A Minor posting where food service is included, if all activities and operations (except off-street parking and loading) are confined, contained, and conducted wholly within completely enclosed buildings and not located closer than one hundred (100) feet from a residential district or closer than five hundred (500) feet from a school	X	C
Bicycle sales, supplies, repair service	X	P
Book store	X	P
Camera store	X	P
Cafés and delicatessens which serve at least breakfast and/or lunch; catering services. No drive-through window service shall be allowed	P[1]	P
Clothing store	X	P
Coffee shop	P[1]	P
Confectionery stores	X	P
Drugstore	X	P
Dry cleaner, laundry, tailoring and alterations shop	X	P
Electrical/electronic equipment sales, service, repair	X	P
Fabric and dry goods stores	X	P
Florist	X	P
Gallery (art and craft)	X	P
General merchandise store	X	P
Gift store	X	P
Grocery and produce stores	X	P
Hardware and garden supplies store	X	P
Health club, gym	P	P
Helipad	X	X
Home furnishings; interior decorating sales, service	X	P
Indoor commercial amusements including bowling alleys with no more than twelve (12) lanes, billiard halls with no more than six tables, and game rooms which provide no more than twenty (20) mechanical or electric games of science and skill, or any combination thereof	X	C
Jewelry store	X	P
Laundromat	X	P
Locksmith	X	P
Marijuana retailing	X	X

Land Use	VO	VC
Meat and fish markets	X	P
Mobile food units	X	P[2]
Novelty store	X	P
Optometry and optical goods, sales, service	X	P
Office supplies	X	P
Personal services	X	P
Pet store	X	P
Photo finishing, photography studios	X	P
Plumbing shops, retail sales, repairs, service	X	P
Post office	X	P
Printing and copying services, telecommuting center	P	P
Graphic arts, printing, blueprinting, photo processing or reproduction labs, publishing and bookbinding services	P	P
Business services such as duplicating, photocopying, mailing and stenographic services, fax and computer facilities, employment agencies, office management services, notary public, business and communications equipment and service, and real estate offices	P	P
Radio, TV, music stores, sales, service	X	P
Restaurant (III Minor Posting OLCC)	X	P
Schools-commercial, instruction studio	X	P
Service stations; banks with a drive-through window; car washes; or any other drive-through service, provided that they are located on the north end of the village commercial district adjacent to Sunnyside Road	X	C
Shoe and shoe repair stores	X	P
Small appliance sales, service, repair	X	P
Small theaters (seating capacity up to five hundred (500))	X	P
Soda fountain	X	P
Specialty food	X	P
Sporting goods	X	P
Supermarket	X	P
Stationery store	X	P
Tailor	X	P
Personal services: answering service, travel agent, etc.	P	P
Toy store	X	P

Land Use	VO	VC
Upholstery shop	X	P
Variety store	X	P
Vehicle supply store	X	P
Veterinarian services and pet supplies	X	P
Video rental	X	P
Commercial—Offices		
Business and professional offices, including legal, financial, architectural, engineering, governmental, manufacturer's representatives, property management, corporate and administrative office	P	P
Professional office: doctors, dentists, chiropractors, service personnel, small clinics or community health care programs	P	P
Medical and dental services, clinics or community health care programs, counseling services, and associated pharmacies	P	P
Testing laboratories and facilities, provided no operation shall be conducted or equipment used which would create hazards and/or noxious or offensive conditions	P	X
Light manufacturing, assembly, artisan, research and development uses which have physical and operational requirements which are similar to other office uses allowed in this district	P	X
Meeting facilities, cafeterias, and recreation/exercise facilities provided for employees within the same structure with a primary use	P[2]	P
Institutional		
Daycare facilities shall be permitted, provided they are integrated within office buildings and do not exceed one thousand five hundred (1,500) square feet or serve more than thirteen (13) children each	P[1]	P
Institutional uses; educational institutes and trade schools; art, music, or dance studios; radio and television studios, excluding transmission towers	C	C
Cultural/public use; galleries and museums; small-scale (seating capacity up to five hundred (500)) assembly or convention facilities and theaters for performing arts; exhibition halls; libraries; senior centers; and fraternal organizations	C	C
Skilled nursing facility and memory care facilities	P	P
Congregate housing	P	P
Other		
Marijuana processing, production and wholesaling	X	X
Wireless telecommunication facilities: wireless telecommunication facilities are subject to the requirements of Chapter 16.44.020 (Wireless Communication Facilities).	P/C	P/C

Land Use	VO	VC
Bus shelters, bike racks, street furniture, drinking fountains, and other pedestrian and transit amenities.	P[2]	P[2]
Temporary buildings for uses incidental to construction work, which shall be removed upon completion or abandonment of the construction work	P[2]	P[2]
Utility carrier cabinets	P[2]	P
The temporary storage within an enclosed structure of source-separated recyclable/reusable materials generated and/or used on site prior to on-site reuse or removal by the generator or licensed or franchised collector to a user or broker	P[2]	P[2]
Building and landscape maintenance offices and enclosed storage areas for maintenance equipment	P[2]	P
Satellite dishes	P[2]	P[2]
Recyclable drop-off sites	P[2]	P[2]
Any accessory use or structure, not otherwise prohibited, that the planning official or designee finds to be customarily accessory and incidental to a permitted use	P[2]	P[2]
Any use that the planning official or designee finds to be similar to one or more of those specified above	P/C	P/C
NOTE: [1] Permitted service commercial uses may be provided within an office development, up to a maximum of twenty (20) percent of the gross floor area of the development. [2] Pursuant to Section 16.69.030.		

C. Development Standards. The development standards in Table 16.23.020-2 apply to all uses, structures, buildings, and development in the VC and VO Districts.

Table 16.23.020-2 Development Standards for VC and VO Districts

Standard	VC	VO
Residential density		
(maximum)	None	NA
(minimum)	None	NA
Lot size (minimum)	None	None
Lot width (minimum)	None	None
Lot depth (minimum)	None	None
Lot coverage (maximum)	50%	50%
Landscaping (minimum)	15%	15%
Setbacks (minimum)	Variable[1]	Variable[1]
Building height (maximum)	45 feet	45 feet
NOTES:		

Standard	VC	VO
[1] Standards are flexible and shall be determined through the master plan process or a design review.		

16.23.030 Commercial districts.

A. Purpose.

1. Community Commercial Center District (CCC). The Community Commercial Center (CCC) District is intended to provide locations or "nodes" for a relatively wide range of small businesses, services and mixed use adjacent to residential areas as a convenience to nearby residents. The CCC District is to be located and developed in a manner consistent with the Comprehensive Plan. In order to limit impacts to residential areas, new community commercial center nodes are intended to be limited in size to not more than five acres of contiguous land.

Building size is also limited to a thirty thousand (30,000) square foot footprint, and measured in accordance with requirements of Table 16.23.030-2 (Footnote 5). Appropriate locations for community commercial center nodes are at the intersection of two arterial streets (major and minor), an arterial street and a collector street, or two collector streets, and within the Happy Valley Town Center Plan Area.

2. Mixed Commercial Center District (MCC). This zone is intended to establish locations for the development of mixed use commercial centers providing a broad range of shopping and service requirements to meet neighborhood and city-wide needs. The Mixed Commercial Center (MCC) District, as applied in the East Happy Valley Comprehensive Plan Area, corresponds to the Damascus/Boring Concept Plan's designation of Neighborhood Centers. These mixed-use centers in the East Happy Valley Comprehensive Plan area accommodate retail services with a focus on meeting resident's daily shopping needs. They are planned to be well served by transit and be integrated with mixed use and higher density housing, thus supporting less auto-dependent lifestyles. These centers are also appropriate locations for civic uses such as post offices and branch libraries. Their design is intended to be highly pedestrian-oriented.

New mixed commercial centers are limited to an area of up to fifteen (15) acres of contiguous land and shall be developed in a manner consistent with the Comprehensive Plan, except as described in Table 16.23.030-2 (Footnote 6), within the East Happy Valley Comprehensive Plan Area. Single-use retail buildings are limited to a maximum square footage of sixty thousand (60,000) square feet as specified in Table 16.23.030-2 (Footnote 6). Appropriate locations for mixed commercial centers are at the intersection of two arterial streets or an arterial and a major collector, preferably on streets served by transit.

All MCC developments involving twenty (20) acres or more of land shall be subject to master plan approval prior to development.

In the MCC District, buildings should be oriented towards the street or accessway with clearly marked entrances. Blank frontage walls at street level are discouraged. Development boundaries and patterns are not defined by type of use (for example, retail and office); instead the district allows a variety of permitted uses to occur throughout the commercial district. The commercial uses are meant to provide a concentration of commercial and office uses to create an active area.

B. Permitted Uses. Table 16.23.030-1 identifies the land uses that are allowed in the CCC and MCC Districts.

Table 16.23.030-1 Community Commercial Center and Mixed Commercial Center (CCC, MCC) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	CCC	MCC
Residential		
Pre-existing dwellings. Pre-existing dwellings may be allowed to remodel or expand and shall not be subject to the provisions of Chapter 16.72	P	P
Medium to high density residential	P[1, 2]	P[1, 3]
Senior housing	P	P
Skilled nursing facility	P	P
Congregate care	P	P
Home occupations (per Section 16.69.020)	P	P
Home occupations, subject to a conditional use review (per Section 16.69.020)	C	C
Commercial—Retail Uses		
Art and craft supply stores, studios	P	P
Bakeries	P	P
Banks, savings and loan associations, loan companies, ATM (without drive-through)	P	P
Banks, savings and loan associations, loan companies, ATM (with drive-through) (per Section 16.44.090)	P/X[4]	P
Barber shops, beauty salons	P	P
Bicycle sales, supplies, repair service	P	P
Book stores	P	P
Camera stores	P	P
Coffee shops, cafés, sandwich shops and delicatessens	P[4]	P[4]
Drug stores	P[4]	P[4]
Dry cleaners and tailors	P[4]	P[4]
Florists	P	P
Home furnishing stores	P	P
Gift stores	P	P
Grocery, food, specialty foods, and produce stores	P[4]	P[4]
Hotels	C	P
Helipads	X	X

Land Use	CCC	MCC
Indoor health and recreation facilities, such as racquetball courts, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities	C	P
Interior decorating shops, sales and service	P	P
Laundromats	P	P
Marijuana retailing	P[6]	P[6]
Music shops, sales and service	P	P
Mobile food units	P[5]	P[5]
Optometry and optical goods, sales and service	P	P
Photo finishing, photography studios	P	P
Rental stores, without outdoor storage	P	P
Restaurants—full-service (without drive-through)	P	P
Restaurants—drive-through (per Section 16.44.090)	P/X[4]	P
Secondhand stores	C	C
Shoe sales and repair stores	P	P
Sporting goods, sales and service	P	P
Stationery stores	P	P
Taverns, bars and cocktail lounges (a minimum distance of one thousand five hundred (1,500) feet from school uses)	C	C
Theaters or assembly halls	C	C
Vehicular service/fueling stations	P	P
Yogurt and ice cream stores	P	P
Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination by the Planning Official	P[4]	P[4]
Commercial—Offices		
Professional and administrative offices	P	P
Medical office buildings, clinics and laboratories	P	P
Institutional		
Churches, synagogues, temples or places of worship	C	C
Library, post office, community center, etc.	P	P
Public parks, usable open space	C	C
Public and private schools (includes commercial day care, dancing and music schools)	C	C
Other		

Land Use	CCC	MCC
Marijuana processing, production and wholesaling	X	X
Self-storage facilities	X	P[7]

NOTES:

[1] Residential uses on upper floors of mixed use buildings are permitted. In such cases, Notes 2 and 3 below do not apply.

[2] Freestanding residential uses at densities greater than the minimum SFA density of 10 du/acre and not to exceed the maximum MUR-M2 density of 34 du/acre (10—34 du/acre) may be permitted in the CCC zone when nonresidential uses occupy the street side(s) of the parcel. The footprint of such freestanding residential uses (including associated parking and accessory uses) may not exceed 25% of the CCC zoned area of the parcel or subject property.

[3] Residential uses at MUR-M2 densities (25—34 du/acre) in conjunction with nonresidential uses are permitted by this code. The footprint of such freestanding residential uses (including associated parking and accessory uses) may not exceed 25% of the MCC zoned area of the parcel or subject property.

[4] Drive-through facilities not permitted for these uses, and all other uses, within the CCC zoned areas of the Happy Valley Town Center Plan Area.

[5] Pursuant to Section 16.69.030.

[6] Pursuant to Chapter 16.49.

[7] Self-storage facilities shall be limited to a single building where individual storage units are only accessed from within the building and are constructed within a single structure. Not more than one self-storage facility, limited to 60,000 square feet of building footprint, shall be permitted within the MCC zone, and only on lots or parcels within the Happy Valley Town Center area and abutting Rock Creek.

C. Location Criteria.

1. Appropriate locations for mixed commercial center development occurs within one-quarter mile from the following types of major intersections:

   a. Major or minor arterial streets;

   b. Major or minor arterial street and collector street.

2. Appropriate locations for community commercial center nodes are at intersections of the following types of streets:

   a. Arterial street and arterial street (any combination of major and minor);

   b. Major or minor arterial street and collector street;

   c. Collector street and collector street.

D. Development Standards.

1. The development standards in Table 16.23.030-2 apply to all uses, structures, buildings, and development in the CCC and MCC Districts.

Table 16.23.030-2: Development Standards for CCC and MCC Districts

Standard	CCC	MCC

Residential density[1] (minimum—maximum)	10 to 34 du/acre	25 to 34 du/acre
Lot size (minimum)	None	None
Lot width (minimum)	None	None
Lot depth (minimum)	None	None
Lot coverage (maximum)	75%	75%
Landscaping (minimum)	None	None
Building setback (minimum):		
Front	0 ft.	0 ft.
Rear	None[2]	None[2]
Interior side	None[3]	10 ft.[4]
Street side	0 ft.	0 ft.
Building setback (maximum):		
Front	None	20 ft.
Rear	None	None
Side	None	None
Building height (maximum)	35 ft.[7]	60 ft.[7]
Building size	30,000 s.f.[5]	60,000 s.f.[6]

NOTES:

[1] Density calculations shall be made pursuant to Section 16.63.020(F).

[2] Except when a rear lot line is abutting a lot in a residential zone and then the rear setback shall be a minimum of ten (10) feet. The required rear setback shall be increased by one-half foot for each foot by which the building height exceeds twenty (20) feet.

[3] Except when a side lot line is abutting a lot in a residential zone and then the side setback shall be a minimum of ten (10) feet. The required side setback shall be increased by one-half foot for each foot by which the building height exceeds twenty (20) feet.

[4] Except when a side lot line is abutting a lot in a residential zone and then the side setback shall be a minimum of twenty (20) feet. The required side setback shall be increased by one-half foot for each foot by which the building height exceeds twenty (20) feet.

[5] Maximum building square footage for single use retail buildings is limited to thirty thousand (30,000) square-foot building footprint per structure. For the purposes of measuring maximum building footprint, measurement is taken from outside wall to outside wall of the ground level.

[6] Maximum building square footage for single use retail buildings is limited to a sixty thousand (60,000) square-foot building footprint per structure. However, as illustrated within the East Happy Valley Comprehensive Plan Map, one MCC zoned center may exceed the fifteen (15) acre limit noted above but shall not exceed twenty (20) acres of contiguous property. In this center, the maximum building footprint size is limited to one hundred fifty thousand (150,000) square feet per structure, provided the entire contiguous twenty (20) acre is master planned prior to new development. If the entire contiguous twenty (20) acre area is not master planned together, the maximum building footprint

size shall remain sixty thousand (60,000) square feet. An area is not considered to be contiguous if it is separated from an adjacent MCC District by a public right-of-way. Further, as part of demonstrating compliance with master plan requirements, design review to the Happy Valley Style, and other code criteria, applicants shall demonstrate how:

a. The visual impact of larger scale development has been mitigated;

b. The streetscape is pedestrian-oriented and varied to create visual interest;

c. Public amenities are provided and scaled appropriately;

d. Transitions to adjacent areas and future development are provided;

e. Adequate infrastructure is provided; and

f. Overall design excellence aligns justifies the larger than normal scale of the project.

[7] Building height is measured pursuant to Chapter 16.12, Definitions.

2. Off-Street Parking and Loading (Vehicle and Bicycle). Off-street parking and loading spaces shall be provided as required in Chapters 16.41 and 16.43.

3. Landscaping. Landscaping shall be provided as required in Chapter 16.42.

4. Pedestrian Access and Circulation. Adequate pedestrian access and circulation systems shall be provided as required in Chapter 16.41.

E. Special Standards.

1. Design Review. New development in the Mixed Commercial Center and Community Commercial Center Districts shall be subject to Chapter 16.62, Land Use and Design Review, and Chapter 16.46, Happy Valley Style Design Standards. Development in the Mixed Commercial Center District involving twenty (20) acres or more of land shall be subject to Chapter 16.65, Master Planned Developments.

2. Pedestrian Oriented Areas. MCC zoned centers shall include pedestrian oriented areas which do not front solely on arterial streets and parking fields. The purpose of this standard is to enhance the pedestrian experience and "village feel" of the centers. As part design review and/or master plan review, applicants shall demonstrate compliance with this standard by using a combination of the following, or similar, concepts and guidelines:

a. Provision of a "main street" and/or village center area that is framed by buildings oriented to both sides of the street or center;

b. On-street parking;

c. Storefront character, with entries oriented to the street, large display windows, and front façades broken into divided bays;

d. Public plazas and promenades;

e. Strong corners, as described in Happy Valley Style;

f. Residential uses on upper stories;

g. Public uses in prominent locations.

Chapter 16.24 INSTITUTIONAL DISTRICTS

16.24.010 Institutional and Public Use (IPU) District.

A. Purpose. The IPU District proposes to serve the need for the designation of areas for necessary institutional uses such as schools and churches, and public and semipublic uses such as parks, a local government center and other governmental and public service uses. This district may be located at any place throughout the City, based on a determination by the City that such areas are required. The Comprehensive Plan identifies the need for such uses throughout the City, with that need being fulfilled through this district.

B. Permitted Uses. Table 16.24.010-1 identifies the land uses that are allowed in the IPU District.

Table 16.24.010-1 Institutional and Public Use (IPU) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	IPU
Commercial—Retail Uses	
Commercial daycare facilities	C
Institutional	
Cemeteries, mortuaries and funeral homes	C
Church, synagogue, temple or cathedral or other places of worship	P
Schools, public or private	P
Service district functions and operations, including but not limited to fire district facilities, water district facilities, radio and television station production facilities, sanitary sewer and stormwater management facilities and road building and maintenance facilities, not to include fuel or other liquid or non-solid combustible material storage	P
Parks, public or private, but not including commercial recreation facilities	P
Public buildings, functions or operations, including stand-alone parking lots and all military uses or activities	P
Public utility substations or other functions	P
Other	
Broadcast towers or other antennae, not including wireless communication facilities[1]	C
Construction of new streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P
Temporary use of a trailer, mobile home or other building for a use incidental to construction work, provided that: The maximum time period is six months, with a maximum extension for another six months; The trailer, mobile home or other building is connected to an approved sewage disposal system; A building permit for a permanent structure has been issued; The temporary home or building shall be removed upon completion or abandonment of construction; and	C

Land Use	IPU
No reasonable alternative, such as the availability of nearby rental housing, exists.	
Wireless communication facilities subject to Section 16.44.020	C
Any permitted use which will include the storage of fuel or any form of combustible materials which exists in a liquid or non-solid form	C
Helipad[2]	C
NOTES: [1] The base of towers or other antennae may not be closer to any residential property line or street right-of-way than a distance equal to the height of the tower. [2] Subject to applicable FAA rules and regulations.	

C. Development Standards. The development standards in Table 16.24.010-2 apply to all uses, structures, buildings, and development in the IPU District.

Table 16.24.010-2 Development Standards for IPU District

Standard	IPU
Lot size (minimum)	None
Lot width (minimum)	None
Lot depth (minimum)	None
Street frontage (minimum)	50 ft.
Lot coverage (maximum)	None, provided that all setback and parking requirements are met
Landscaping (minimum)	None
Building setbacks (minimum):	
Front	20 ft.
Rear	20 ft.
Interior side	10 ft.
Street side (corner lot)	15 ft.
Building height (maximum)[1]	50 ft.

NOTES:

[1] Building height is measured pursuant to Chapter 16.12, Definitions.

Chapter 16.25 INDUSTRIAL DISTRICTS

16.25.005 Rock Creek Mixed Employment (RC-ME) District.

A. Purpose. The Rock Creek Mixed Employment (RC-ME) District permits land uses with high job densities that provide stable, family-wage employment within the City. This district provides a mix of uses that are compatible with nearby residential, institutional and commercial uses and provides a buffer between residential and more formally “light industrial” areas to the east.

Permitted uses in the Rock Creek Mixed Employment District include office, creative arts, small-scale manufacturing, research and development, and medical centers. Commercial uses are limited to those serving the primary uses of the district. A limited number of residential uses, including pre-existing dwelling units, are permitted by right.

B. Permitted Uses. The following uses are permitted in the RC-ME District.

Table 16.25.005-1 Rock Creek Mixed Employment (RC-ME) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	RC-ME
Residential	
Single-family dwellings, when pre-existing as of June 1, 2008	P[1]
Home occupations in pre-existing dwellings	P
Assisted living facilities, congregate housing, continuing care retirement community and skilled nursing facilities	C[2]
Commercial—Retail	
Commercial day care	C
Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities	C
Marijuana retailing	X
Parking lot (when not an accessory use)	X
Restaurant—Full service	P[3]
Retail—Sales	P[9]
Retail—Personal services	P[4]
Commercial—Office	
Professional and administrative offices	P
Medical office buildings	P
Industrial	
Industrial services—Fully enclosed	P[5]
Manufacturing and production—Fully enclosed	P
Marijuana processing, production and wholesaling	X
Fabrication	P
Energy recovery systems	
Research and development facilities	P
Laboratories	P
Repair, finishing, and testing	P
Assembly	P

Land Use	RC-ME
Distribution center	P[6]
Warehouse	P[6]
Institutional	
Basic utilities	P
Colleges	P[7]
Emergency services	P
Medical centers	P
Hospitals, including helipads[10]	P
Postal service facilities	P[8]
Public parks and open space—Pedestrian amenities	P
Public parks, usable open space	P
Public schools, parks, and open space—Parks and recreation facilities	C
Other	
Agriculture—Animals/horticulture when pre-existing as of June 1, 2008	P
Transportation facilities (operation, maintenance, preservation, and construction, in accordance with the City's Transportation System Plan)	P
Wireless telecommunication facilities. Wireless telecommunication facilities are subject to the requirements of Section 16.44.020 (Wireless communications facilities)	P/C
Any accessory use or structure, not otherwise prohibited, that the Planning Official or designee finds to be customarily accessory and incidental to a permitted use	P
Any use that the Planning Official or designee finds to be similar to one or more of those specified above	P/C

NOTES:

[1] Pre-existing dwellings are allowed to remodel or expand.

[2] Assisted living and senior housing may include a range of housing type including single-family detached, single-family attached, assisted-living multifamily units, and congregate care facilities permitted on a single property to provide for a variety of dwelling units and continuous care for seniors of varying levels of health and independence.

[3] Drive-through facilities are not permitted.

[4] Maximum building size of twenty thousand (20,000) gross square feet.

[5] Outdoor storage or outdoor fleet storage not permitted.

[6] Permitted as an accessory use—May not exceed twenty (20) percent of the total site area.

[7] Use limited to public and nonprofit institutions providing technology, health sciences or creative arts education and job training. No dormitories permitted.

Land Use	RC-ME
[8] Fleet parking or mail processing centers not allowed. Permitted use limited to direct consumer services.	
[9] Retail sales uses may not exceed sixty thousand (60,000) square feet of gross lease area in a single building; or commercial retail uses with a total of more than sixty thousand (60,000) square feet of retail sales area on a single lot or parcel; or, on contiguous lots or parcels, including those separated only by transportation right-of-way. [10] Subject to applicable FAA rules and regulations.	

C. Master Plan Required. Within the RC-ME District, uses will provide high densities of employment. This district encourages creative development patterns that achieve these densities in a well-planned, urban environment. Development on sites of ten (10) acres or larger shall require preparation of a master plan pursuant to subsection E of this section. On sites smaller than ten (10) acres, the preparation of a master plan shall be optional. However, if a master plan is not prepared, the development shall be subject to Chapter 16.62 (Land Use Review and Design Review). As part of the design review application, the applicant shall provide a traffic impact analysis (TIA) as required by the City Engineer. The traffic impact analysis shall be consistent with the requirements of OAR 660-012-0060(1)—(3) and the requirements of subsection (E)(4)(b)(ix) of this section. Development will not be approved prior to submission and review of this analysis.

D. Development Standards.

1. Compliance Required. All of the applicable development standards contained in the underlying zoning district, except where the applicant has obtained variances pursuant to Chapter 16.71 (Variances), or adjustments in accordance with the RC-ME Master Plan process as contained in subsection E.

2. Development Standards. Development in the RC-ME District shall comply with all of the development standards in the table below and all other applicable standards in this title, except as modified through the RC-ME Master Plan provisions in subsection (E)(4)(b)(iv).

Table 16.25.005-2 Development Standards for RC-ME District

Standard	RC-ME
Minimum lot size	1 acre[1]
Minimum lot width	100 ft.
Minimum lot depth	100 ft.
Minimum/maximum floor area ratio (FAR)	Maximum of 2:0 unless increased through a Master Plan
Minimum setbacks	
Front and side facing street on corner and through lots	50 feet when abutting a major arterial, highway or expressway, otherwise, setback equals zero feet
Side/rear yard	50 feet when abutting a residential zoning district, otherwise, setback equals zero feet

Standard	RC-ME
Maximum building height	Established through Master Plan except for a maximum height of 70 ft. within 100 ft. of an abutting residential district
Minimum landscape/open space	15% of net site area shall be landscaped. Up to 1/3 of the required landscaped area may be used for active or passive recreational use or pedestrian amenities. Examples include walking/running paths, play areas, plazas, picnic areas, water quality facilities, open recreational facilities and natural existing landscaping
NOTES: [1] Legal lots of record of less than one acre created prior to the adoption of these regulations shall be conforming for purposes of development.	

E. Master Plan Requirements Specific to the RC-ME District.

1. Purpose. The purpose of the RC-ME Master Plan is to allow large-scale, multiphased developments to obtain approval of several projects at one time within the RC-ME District. The RC-ME Master Plan process allows the review authority to evaluate the cumulative impacts associated with the full build-out of the overall development, to ensure that the impacts of such development are mitigated to the extent practicable and to coordinate the provision of future infrastructure.

2. Applicability. These provisions shall apply to all development on parcels ten (10) acres in size or larger within the RC-ME District and may be used voluntarily for parcels smaller than ten (10) acres.

3. Components of RC-ME Master Plans and Detailed Phasing Plans.

a. Concept Master Plan. A proposed plan for development of the site at full build-out of the concept plan that contains the approximate building envelopes by use within a conceptual framework including pedestrian, bicycle and vehicular circulation, open space/natural resource and on-site utility plans. The concept plan also includes minimum and maximum development standards; architectural, landscaping and pedestrian design standards; building and landscaping materials lists; and other information that will illustrate planned development. The plan also shall include a phasing plan and proposed schedule of development. For each phase of development and at full build-out, the applicant shall identify the total square footage by type of use; development density; parking and traffic generation; on-site utility requirements; and required off-site capital improvements for roads and other public infrastructure. A detailed traffic impact analysis (TIA) detailing traffic volumes at each phase of development and at full build-out is required.

b. Detailed Phasing Plans. At the time of development of each phase of development, the applicant shall present a detailed development plan including, but not limited to, the maximum size, location and use of specific buildings; size and location of parking facilities; building and parking structure elevations; location and design of on-site

pedestrian, bicycle and vehicle circulation; design and location of open space and natural resource protection; and detailed utility plan. The applicant also shall confirm traffic impacts for the phase originally identified in the overall TIA required at the time of the concept plan approval. The proposed development shall substantially conform to the architectural and site design standards approved in the Concept Master Plan.

4. RC-ME Concept Master Plan Submittal Requirements.

a. Existing Conditions Plan.

i. Legal description of all parcels on the proposed site within the applicant's ownership or control.

ii. Vicinity map that identifies abutting uses. For the purposes of these regulations, "abutting" means those properties sharing one or more property lines with the subject site.

iii. Zoning map that identifies base and overlay zoning designations for the proposed site and abutting properties.

iv. Site description for all property in the applicant's ownership and/or control including the following information provided in narrative, tabular and/or graphic formats:

(A) Topography and natural resources including 100-year flood plain; drainage patterns and courses; wetlands, rivers, springs and other water bodies; significant stands of trees and individual trees with a caliper greater than six inches as measured four feet above grade; significant fish and wildlife habitat, and natural hazards such as steep slopes greater than fifteen (15) percent and unstable, impermeable or weak soils. The application must include a site plan with no greater than two-foot contours for slopes of zero to ten (10) percent and no greater than five-foot contours for slopes greater than ten (10) percent;

(B) Inventory of Goal 5 resources, including natural, cultural, historic and/or archeological resources on the site, if any;

(C) Existing building inventory including use, location and size, noting whether any existing buildings will be retained and incorporated into the final build-out of the site;

(D) Location and size of all public and private utilities on and immediately abutting the site including water, sanitary sewer, storm water retention/treatment facilities, and electrical, telephone and data transmission lines; and

(E) Location of all public and private easements.

v. Detailed description of the existing roadway system within and adjacent to the site including:

(A) Street classification of all internal and adjacent streets;

(B) Transit service availability;

(C) Baseline traffic impact study within the vicinity of the site prepared by a licensed civil engineer to include information as required by the City's Engineer.

vi. Description and evaluation of capacity of existing infrastructure on and in the vicinity of the site.

b. Concept Master Plan.

i. A proposed plan for development of the site at full build-out at the conceptual level including:

(A) Master plan boundary;

(B) Approximate location and building envelopes by use;

(C) Pedestrian, bicycle and vehicular circulation plan;

(D) Open space/natural resource plan;

(E) On-site utility plan.

ii. Phasing plan and tentative schedule that establishes the likely order in which the site will develop. Such a phasing plan is presented for purposes of estimating roadway and public utility capacity, with the understanding that phases may be developed out of order and that timing is approximate.

iii. Calculations for each phase and at total build-out of the following:

(A) Gross and net acreage, with the latter including deductions for public streets, natural resource corridors and other non-private development activities;

(B) Maximum number of employees and anticipated number of patient and related visits on typical weekday;

(C) Maximum development area, as expressed in gross square feet;

(D) Maximum total floor-to-area (FAR) ratio;

(E) Maximum building coverage, as expressed in percentage of total net site area;

(F) Minimum open space, as expressed in percentage of total net site area;

(G) Total number of employee and visitor parking spaces required.

iv. Minimum and maximum development standards, including, but not limited to, and as appropriate:

(A) Minimum and maximum lot size;

(B) Minimum and maximum setbacks;

(C) Maximum height, which may vary throughout the site;

(D) Maximum FAR at full build-out;

(E) Maximum building coverage at full build-out;

(F) Minimum open space requirements at full build-out;

(G) Minimum and maximum vehicular and bicycle parking ratios by use;

(H) Minimum number of loading bays.

v. Design standards including, but not limited to:

(A) Architectural design standards, including design illustrations and building materials boards;

(B) Landscaping, including design standards and standardized plant list. Native plant materials are preferred where practicable;

(C) Pedestrian facilities, including development standards, materials and street furniture;

(D) Bicycle parking facilities, including specifications;

(E) Signage plan including prototypical examples, color palette and materials board.

vi. Graphic illustrations of proposed development at full build-out including, but not limited to:

(A) Density "block" and other three-dimensional concept studies;

(B) Illustrative color "typical" street perspectives that portray the proposed architectural style and urban design elements to be used throughout the development, in recognition that these are still conceptual in nature.

vii. Goal 5 resource protection plan, if needed.

viii. Public utility capacity analyses/infrastructure plans for each phase and total build-out, as required by the City Engineer.

ix. Traffic impact analysis (TIA) for each phase and total build-out, as required by the City Engineer. The traffic impact analysis shall be sufficient to demonstrate compliance with OAR 660-012-0060(1)—(3). Development of the site will not be approved without this analysis. The traffic impacts will be reviewed against, and any mitigation must be consistent with, the function, capacity and performance standards of affected transportation facilities. The following criteria apply only when compliance with the Transportation Planning Rule is deferred to the master plan stage, in which case the TIA shall identify whether the plan or proposed development significantly affects a transportation facility by:

(A) Changing the functional classification of an existing or planned transportation facility;

(B) Changing the standards implementing the street classification system;

(C) Allowing types or levels of development that would result in levels of travel or access that are inconsistent with the level of service of a transportation facility;

(D) Reducing the performance of a transportation facility below the minimum acceptable performance standard identified in the City of Happy Valley Transportation System Plan; or

(E) Reduce the performance of a transportation facility that is otherwise performing below the minimum acceptable performance standard identified in the City Transportation System Plan.

x. A proposed Concept Master Plan or Detailed Phasing Plan that will significantly affect a transportation facility must ensure that the proposed uses or development are consistent with the identified function, capacity and performance standards of the transportation facility by:

(A) Limiting the proposed uses or development to be consistent with the function, capacity, and performance standards of the transportation facility;

(B) Altering densities or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

(C) Providing or improving transportation facilities sufficient to support the proposed uses or development.

5. RC-ME Detailed Phasing Plan Submittal Requirements.

a. Detailed Phasing Plan of Subsequent Phases. The following information shall be required for each Detailed Phasing Plan:

i. Schedule for initiating and completing construction of phase.

ii. Anticipated utilization at completion of the phase, including the total number of employees, daily visitors and other indicators of full utilization of the structure(s) within the phase.

iii. Detailed description of all proposed development presented in narrative, tabular and/or graphic formats as follows:

(A) Description of new buildings anticipated, including size, location, approximate footprint and use;

(B) All other site improvements including new surface and structured parking facilities; bicycle parking facilities; on-site pedestrian, bicycle and vehicular circulation; transit stops; pedestrian/transit amenities; and open space and landscaped areas;

(C) The location of new and/or expanded existing public and private infrastructure including water, sanitary sewer, storm water retention/treatment facilities, and electrical, telephone and data transmission lines;

(D) Landscaping plan;

(E) Goal 5 resource protection plan, if required;

(F) Sign plan;

(G) Lighting plan;

(H) Grading and erosion control plans.

iv. Building elevations.

v. Summary of development intensity at completion of the phase including average FAR and lot coverage for the development area and for the site as a whole.

vi. Calculation of minimum vehicular and bicycle parking spaces based on parking ratios established in the Concept Master Plan.

vii. Reconfirmation of traffic impacts associated with completion of the phase first described in the TIA prepared for the Concept Master Plan.

viii. Neighborhood communication and coordination plan to ensure that the applicant implements an on-going process for communicating and problem resolution with neighbors.

ix. Narrative that demonstrates how the Detailed Phasing Plan for the specific project or groups of projects within a phase are consistent with the phase as conceptually approved in the Concept Master Plan. If there is some aspect of the phase that does not comply, the applicant may request a Detailed Phasing Plan modification as described in subsection H.

6. RC-ME Concept Master Plan and Detailed Phasing Plan Approval Process.

a. Initial Approval. The initial application for a Concept Master Plan shall be reviewed as a Type III-PC quasi-judicial action at a public hearing before the Planning Commission and subsequently, with regard to architectural standards, by the Design Review Board, pursuant to the requirements of this section and using the approval criteria contained in subsection (E)(7). The application also may include a request for a use that is permitted conditionally in Table 16.25.005-1 subject to the requirements of Chapter 16.64 of this title. As part of the review process for the Concept Master Plan, the Design Review Board shall consider alternative design standards for institutional development in the Rock Creek Mixed Employment area in lieu of the "Happy Valley Style" design standards that govern the design of development elsewhere in the City.

b. Detailed Phasing Plans. Prior to construction of one or more projects within a phase of development approved in the Concept Master Plan, the applicant shall submit a Detailed Development Plan that contains all of the information listed in the submittal requirements for review and approval by the Community Development Director or designee, using the approval criteria in subsection (E)(7). This review shall be undertaken in lieu of the City's formal design review process.

c. Concurrent Review. An applicant may submit applications for initial review of the Concept Master Plan and review of the first and subsequent Detailed Phasing Plan(s) to be reviewed concurrently. In this case, the Detailed Phasing Plan for one or more phases of development shall be reviewed at the public hearing before the Planning Commission and Design Review Board at which the Concept Master Plan is reviewed. The Detailed Phasing Plan shall require no further review, providing the phase is built out in a manner that is substantially consistent with that which was approved.

7. RC-ME Concept Master Plan and Detailed Phasing Plan Approval Criteria.

a. Concept Master Plan. An application for a Concept Master Plan must demonstrate compliance with the following criteria:

i. Content. The Concept Master Plan must contain all of the components required in subsection (E)(4).

ii. Compliance With all Applicable Standards. The proposed development and uses must comply with all applicable standards of this title, except where modifications are being approved as part of the Concept Master Plan.

iii. Traffic System Capacity. There is either sufficient capacity in the transportation system to safely support the development proposed in all future phases, or there will be adequate capacity by the time each phase of development is

completed, as demonstrated by a TIA that conforms with the requirements of subsection (E)(4)(b).

iv. Availability of Public Services. There is either sufficient capacity for public services such as water supply, police and fire services, and sanitary waste and storm water disposal, to support adequately the development proposed in all future phases, or there will be adequate capacity available by the time each phase of development is completed.

v. Protection of Designated Resources. Resources such as historic landmarks, significant trees and sensitive natural resources identified on the City's Goal 5 inventories are protected and enhanced in compliance with the regulations in this and other titles of the Municipal Code.

vi. Internal Design Compatibility With Adjacent Uses. The Concept Master Plan must contain building design, landscaping, parking and circulation elements that minimize conflict with adjacent uses to the greatest extent practicable.

vii. Mitigation of Off-Site Impacts. All potential off-site impacts including litter, noise, shading and glare shall be identified and mitigated to the greatest extent practicable.

b. Detailed Phasing Plans. To obtain an approval of one or more subsequent phases of development, the applicant shall demonstrate compliance with all of the following criteria:

i. Consistency. A Detailed Phasing Plan shall be substantially consistent with the phase as approved in the Concept Master Plan.

ii. Content. A Detailed Phasing Plan shall contain all of the information required in the submittal requirements in subsection (E)(5).

iii. Numerical Development Standards. A Detailed Phasing Plan shall adhere to all of the numerical development standards approved in the Concept Master Plan. However, as part of the review of a Detailed Phasing Plan, the applicant may introduce modifications necessary for a specific project or projects subject to the approval criteria without the requirement for a variance, if the proposed modification is equal to or less than a twenty (20) percent increase or decrease in the numerical standard. If the proposed modification involves a change in a numerical standard of greater than twenty (20) percent, the review of the Detailed Phasing Plan shall be accompanied by a concurrent variance request consistent with the requirements of Chapter 16.71 of this title.

iv. Design and Nonnumerical Development Standards. A Detailed Phasing Plan shall adhere to all of the design and nonnumerical development standards approved in the Concept Master Plan. However, as part of the review of a Detailed Phasing Plan, the applicant may introduce any modifications necessary to a specific project or projects subject to the approval criteria and the provisions of subsection H.

8. Conditions of Approval. In approving the Concept Master Plan and subsequent Detailed Phasing Plans, the appropriate Review Authority may impose any conditions it deems necessary to mitigate potentially adverse impacts on surrounding properties to the greatest extent practicable.

F. Vesting.

1. Applicability. A complete application for a Concept Master Plan shall be reviewed under this Chapter and the zoning, development and other land use ordinances in the Happy Valley Municipal Code, including any uncodified ordinances modifying the same, in effect on the date the Concept Master Plan is submitted. An approved Concept Master Plan may be implemented by means of Detailed Phasing Plans for subsequent phases under the zoning, development and land use ordinances applied by the City in its review of the Concept Master Plan, provided the phases are implemented in substantial compliance with the Concept Master Plan. An approved Concept Master Plan shall govern subsequent phases for the period described in subsection G.

2. Vesting of Infrastructure Capacity. An approved Concept Master Plan may include a list of on-site and off-site transportation improvements and other public infrastructure needed to support each proposed phase of development. In the event that the applicant agrees to install public improvements or infrastructure in excess of the capacity needed for a particular Detailed Phasing Plan, and in conformance with an approved Concept Master Plan, the City, through a development agreement or the formation of a reimbursement district, or both, shall accommodate future uses and building square footages based on the extent of the overbuilt infrastructure and consistent with the approved Concept Master Plan.

3. Loss of Vesting. A Detailed Phasing Plan for which modification is sought under subsection (H)(4) or (H)(5) is not subject to the laws in effect when the Concept Master Plan was submitted as described in subsection (F)(1). An application for a Detailed Phasing Plan that is subject to subsection (H)(4) or (H)(5) shall comply with the land use regulations in effect at the time the Phasing Plan is submitted. Post-approval modifications that require only a minor review pursuant to subsection (H)(3) do not result in the loss of the vesting described in subsection (F)(1).

G. Term.

1. General. The term of a Concept Master Plan shall not exceed fifteen (15) years. An extension may be granted in accordance with the criteria and procedures provided in subsection (G)(2).

2. Extension. If all phases of development in the approved Concept Master Plan are not built within the approved term, the applicant may request an extension in writing to the Community Development Director. Two one-year extension requests may be approved subject to the following criteria:

a. The applicant has pursued in good faith completing the build-out of the approved Concept Master Plan;

b. There have been no changes to the comprehensive plan, development code or other applicable governing documents that are inconsistent with the approved Concept Master Plan;

c. There are no other significant changed conditions that would render the extension of the Concept Master Plan contrary to the public health, safety or general welfare.

3. An extension request shall be filed in writing with the Community Development Director at least sixty (60) days prior to the expiration of the initial fifteen (15) year period or any subsequently approved extensions.

H. Post-Approval Modification of a Detailed Phasing Plan.

1. Purpose. The purpose of this subsection is to address instances in which the applicant may not be able to construct a phase of the development exactly as approved in an approved Detailed Phasing Plan. This subsection permits the applicant to seek post-Concept Master Plan approval changes using a review process that is determined by the magnitude of the proposed change or changes. As noted in subsection F, post-approval modifications that require a quasi-judicial review by either the Community Development Director or Planning Commission or Design Review Board, procedure result in a loss of vesting in the approval criteria for that specific phase of development.

2. Modifications Allowed by Right. The following modifications are permitted by right and are allowed upon issuance of a building permit, if required:

a. Interior improvements;

b. Exterior improvements associated with existing buildings that do not involve an expansion of floor area, subject to all applicable base zone development and design standards, as modified in the approved Concept Master Plan, and relevant conditions of approval thereto;

c. Installation of new or modification of existing mechanical or electrical equipment, subject to all applicable base zone development and design standards, as modified in the approved Concept Master Plan, and relevant conditions of approval thereto;

d. Maintenance of existing facilities when a building permit is required.

3. Minor Decision. The following modifications shall be reviewed by the Community Development Director or designee, pursuant to the City's administrative decision-making procedure:

a. Modification of the location of an approved building or building addition, providing the modification complies with the development and design standards, as approved in the Concept Master Plan and as modified in the applicable Detailed Phasing Plan, including all relevant conditions of approval thereto;

b. Modification of use, design, or development standards including architecture, landscape architecture, pedestrian and bicycle facilities; signs and/or lighting elements approved in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval, including all relevant conditions of approval thereto;

c. A new building of any size in any location that replaces a building approved but not constructed, providing there is: (i) no net increase in total building coverage, and (ii) compliance with the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval, and all relevant conditions of approval thereto;

d. New buildings or building additions up to ten thousand (10,000) gross square feet (gsf) not anticipated and, therefore, not contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval. Construction of such unanticipated buildings or building additions shall not exceed ten thousand (10,000) gsf in any one year, and shall not exceed thirty thousand (30,000) gsf in any four years. As part of this review, the applicant shall provide information on the amount of floor area built to date for the year in which the application is submitted, and the amount of floor area built within the four-year period preceding the request;

e. Adjusting the sequence of buildings within a phase of development provided that there is no net increase in traffic impacts.

4. Quasi-Judicial Review by the Community Development Director. The following modifications shall be reviewed by the Community Development Director or designee, pursuant to the City's quasi-judicial decision-making procedure:

a. A change in the approved site boundary resulting in the exchange of properties where the total amount of land in the approved boundary remains the same or is decreased;

b. A new building or building addition exceeding ten thousand (10,000) gsf but less than fifty thousand (50,000) gsf, not anticipated and, therefore, not contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval. For new buildings or building additions exceeding twenty-five thousand (25,000) gsf under this provision, the applicant shall provide traffic and parking analyses of the proposal as part of the application;

c. An increase or decrease of up to ten (10) percent in the total number of parking spaces approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval. The applicant shall provide a parking analysis related to the proposal as part of the application.

5. Quasi-Judicial Review by the Planning Commission or Design Review Board. The following modifications shall be reviewed in a public hearing before the Planning Commission or Design Review Board, pursuant to the City's quasi-judicial decision-making procedure:

a. Expansion of the master plan boundary beyond that contained in the approved Concept Master Plan as modified in the applicable Detailed Phasing Plan approval;

b. New building or building additions of fifty thousand (50,000) gsf or more, not anticipated and, therefore, not contained in the initial Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval;

c. Proposals that result in an increase of ten (10) percent or more of site-generated vehicular trips approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval;

d. An increase or decrease greater than ten (10) percent in the total number of parking spaces approved in the Concept Master Plan approval as modified in the applicable Detailed Phasing Plan approval;

e. A proposed use or development that was denied in the approved Concept Master Plan.

16.25.010 Industrial districts.

A. Purpose.

1. Employment Center (EC). The purpose of the Employment Center (EC) District is to provide for a mix of employment opportunities, located where they are accessible by a variety of transportation modes, including transit services and safe and convenient pedestrian connections. These areas provide sites suitable for business and office parks, campus and light industrial uses, professional and corporate offices, medical offices and clinics, tech/flex

businesses, creative arts and services, technical/vocational schools and other related businesses. Building types range from large single user campuses, multiple tenant business parks to multistory mixed-use buildings. Quality design and a connected and walkable character of the surrounding environment will be provided. Housing is allowed when combined in vertical mixed-use buildings.

2. Industrial Campus (IC). Pursuant to Metro's Urban Growth Management Functional Plan Title 4 for Regionally Significant Industrial Areas (RSIA) the purpose of the Industrial Campus District is to provide a ready supply of developable industrial land for the City of Happy Valley and the southeast metropolitan area. It seeks to promote economic development, job creation, sustainable businesses and green building practices, jobs-housing balance, land optimization and freight mobility by preserving large contiguous areas for industrial clusters near existing and planned residential areas and transportation corridors. In order to protect the viability and integrity of industrial land, this district is not intended for residential use and shall allow only limited retail and commercial components. The Industrial Campus District is intended to be a mix of, but not limited to, the following industries:

a. Green building products and design;
b. Advanced materials;
c. Medical devices;
d. Specialized software applications;
e. Forestry and agricultural biotechnology;
f. Nanotechnology;
g. Recreational equipment/recreation technology;
h. Corporate headquarters;
i. Professional services;
j. Specialty food processing;
k. Transportation equipment/technology;
l. Logistics.

B. Permitted Uses. Table 16.25.010-1 identifies the land uses that are allowed in the EC and IC Districts.

Table 16.25.010-1 Industrial (EC, IC) Permitted Uses

P=Permitted; C=Conditional Use; X=Prohibited

Land Use	EC	IC
Residential		
Pre-existing dwellings. Preexisting dwellings may be allowed to remodel or expand and shall not be subject to the provisions of Chapter 16.72	P	P
Home occupations in pre-existing dwellings	P	P
New residential uses	P[1]	X
Commercial—Retail		

Land Use	EC	IC
Commercial day care	C	C
Entertainment, major event	X	X
Hotels	C	X
Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities	C	C
Mobile food units	P[3, 12]	P[3, 12]
Outdoor recreation, commercial	X/C[9]	X
Parking lot (when not an accessory use)	X	C/X[7]
Quick vehicle servicing or vehicle repair	C	P
Retail sales—Includes used homes, trailers, motor homes and recreational vehicles	P[2, 7]	P[3, 7]
Commercial service	P[2]	P[3]
Self-service storage—Includes mini-storage and recreational vehicle storage facilities	X	P/X[7]
Marijuana retailing	X	X
Commercial—Office		
Offices	P	P[4]
Industrial[5]		
Industrial services—Fully enclosed	P	P
Industrial services—Not enclosed	C	P
Manufacturing and production and fabrication and assembly—Fully enclosed	P	P
Research and development activities and laboratories—Fully enclosed	P	P
Research and development activities and laboratories—Not fully enclosed	C[5]	P[5]
Repair, finishing and testing—Fully enclosed	P	P
Repair, finishing and testing—Not fully enclosed	C[5]	P[5]
Distribution center and warehouse	P[6]	P[8]
Waste-related	X	C/X[7]
Helipads or heliports[11]	P	P
Transfer station	C	P[7]
Wholesale activities	P[2]	P[3]
Institutional		
Basic utilities	P	P

Land Use	EC	IC
Colleges	C[2]	X
Institutional uses; educational institutes and trade schools; art, music, or dance studios; radio and television studios, excluding transmission towers	C[2]	C
Public parks and open space—Pedestrian amenities	P	P
Public parks and open space—Parks and recreation facilities	C	P
Public parks, usable open space	P	P
Churches, synagogues, temples or places of worship, library, post office, community center, etc.	C[2]	X
Public and private schools (includes commercial day care, dancing and music schools)	X/C[2, 7]	X
Other		
Agriculture—Animals, when an existing use as of May 5, 2009	P	P
Agriculture—Animals, when accessory to a permitted industrial use	X	P
Agriculture—Animals, when new use	X	X
Agriculture—Nurseries and similar horticulture (See also wholesale and retail uses)	C	P
Agriculture—Vegetative processing/recycling, log processing—Not enclosed	C	C
Buildings and structures exceeding the height limits in Table 16.25.010-2	C	C
Marijuana processing, production and wholesaling	P[10, 13]	P[10, 13]
Radio frequency transmission facilities—Within height limit of district	P	P
Radio frequency transmission facilities—Exceeds height limit (freestanding or building-mounted facilities)	C	C
Rail lines and utility corridors	P	P
Temporary uses (limited to “P” and “C” uses), per Section 16.69.010	C	C
Transportation facilities (operation, maintenance, preservation, and construction in accordance with the City’s Transportation System Plan)	P	P
Wireless telecommunication facilities: wireless telecommunication facilities are subject to the requirements of Section 16.44.020 (Wireless Communications Facilities)	P/C	P/C
Any accessory use or structure, not otherwise prohibited, that the Planning Official or designee finds to be customarily accessory and incidental to a permitted use	P	P
Any use that the Planning Official or designee finds to be similar to one or more of those specified above	P/C	P/C

Land Use	EC	IC
NOTES: [1] Residential uses on upper floors of mixed use buildings are permitted. [2] New commercial retail uses shall not exceed sixty thousand (60,000) square feet gross leasable area on a single lot or parcel or contiguous lots or parcels. For the purposes of this limitation, parcels or lots separated by only a transportation right-of-way are considered to be contiguous. The use of any building, structure or land that was existing on or before July 17, 2012 or which was a legal use at the time of annexation may continue and may expand to add up to twenty (20) percent more floor area and ten (10) percent more land area on a site. [3] Uses are subject to the following limitations: a. New uses: 1. No single store, branch, agency or other outlet shall exceed five thousand (5,000) square feet in area (including buildings and outdoor storage and sales areas); and 2. On sites with multiple outlets, the cumulative area dedicated to these uses shall not exceed twenty thousand (20,000) square feet (including buildings and outdoor storage and sales areas); b. Existing uses and buildings: Notwithstanding subsection (a) above, the use of any building, structure or land that was existing on or before July 17, 2012 or which was a legal use at the time of annexation may continue and may expand to add up to twenty (20) percent more floor area and ten (10) percent more land area on a site. [4] Permitted as an accessory use—Executive and administrative offices must relate to the operation of the industrial use and may not exceed forty (40) percent of the total gross floor area. [5] If not fully enclosed, must be located more than two hundred (200) feet from residential districts and petroleum storage and refining. [6] Permitted as an accessory use—May not exceed twenty (20) percent of the total site area. [7] Use is prohibited within the Rock Creek Employment Center Subdistrict as defined in subsection (G). Specific to retail sales, prohibition is on sale of used homes, trailers, motor homes and recreational vehicles. [8] Within the Rock Creek Employment Center Subdistrict as defined in subsection (F), use is permitted only as an accessory use—May not exceed twenty (20) percent of the total site area except as noted in subsection (F)(3). [9] Outdoor recreation facilities without permanent buildings are allowed as a conditional use within the EC zone. [10] Use is prohibited within the Rock Creek Employment Center Subdistrict as defined in Section 16.25.010(F). [11] Subject to applicable FAA rules and regulations. [12] Pursuant to Section 16.69.030. [13] Pursuant to Chapter 16.49.		

C. Conditional Uses Approval Criteria.

1. Conditional uses may be allowed subject to review pursuant to Chapter 16.64 (Conditional Use). In addition to the criteria for approval listed in that chapter, conditional uses in the EC and IC Districts shall be reviewed against the following criteria:

a. If a service-related use, buildings shall have existing employment or industrial users as their primary market;

b. Uses shall not undermine the ability of the district to retain and attract employment and industrial uses; and

c. Uses shall not create substantial use incompatibilities or significantly alter the overall industrial campus character of the area based on the existing proportion of industrial to non-industrial uses.

D. Additional General Provisions for the Employment Center and Industrial Campus Districts. The procedures and application requirements under Chapter 16.62 (Design Review) and Chapter 16.48 (Industrial Design Standards) shall apply to all development in the EC and IC Districts. If language within these sections conflicts with specific requirements and standards of the districts, the standards within the design review and general site design standards chapters shall prevail.

E. Development Standards. The development standards in Table 16.25.010-2 apply to all uses, structures, buildings, and development within the EC and IC Districts.

Table 16.25.010-2 Development Standards for EC and IC Districts

Standard	EC	IC
Residential density (maximum)	NA	NA
Lot size (minimum)	None	None[1]
Lot width (minimum)	None	None
Lot depth (minimum)	None	None
Lot coverage, including all impervious surfaces (maximum)	85%	75%
Open space (minimum)	15%	15%
Landscaping (minimum)	The requirements of Chapter 16.42 apply, including the screening provisions of Section 16.42.060(G). In addition, the approval authority may require landscaping, fences, walls or other buffering that exceed the landscaping standards when it finds that more or different buffering is necessary to mitigate adverse noise, light, glare, and/or aesthetic impacts to adjacent properties	
Building setbacks (minimum):		
Front	10 ft.	10 ft.
Rear (abutting a nonresidential district)	10 ft.	20 ft.

Standard	EC	IC
Rear (abutting a residential district)	20 ft.	20 ft.
Side	0 ft./10 ft.[2]	0 ft./20 ft.[2]
Building setbacks (maximum):		
Front	None	None
Rear	None	None
Side	None	None
Building height (maximum)	45 ft.	45 ft.

NOTES:

[1] Lots or parcels larger than fifty (50) acres may be divided into smaller lots and parcels pursuant to a master plan approved by the City so long as the resulting division yields at least one lot or parcel of at least fifty (50) acres in size.

[2] The minimum required side and rear building setbacks shall be increased by one-half foot for each foot by which building height exceeds twenty (20) feet. Zero lot lines area allowed along interior side lot lines where both parcels are within the EC or IC zones subject to approval by the building official and Clackamas fire district.

F. Rock Creek Employment Center Subdistrict.

1. The boundaries of the Rock Creek Employment Center Subdistrict are shown on Figure 16.25.010-1.

2. Subarea A—Trip Limitation Requirement. The standards in this subsection apply to all development proposed within Subarea A identified on Figure 16.25.010-1.

a. The cumulative total p.m. peak hour trips for the subarea shall not exceed two hundred seventeen (217) trips except as permitted by subsection (F)(3).

b. Development applications within the subarea shall include a trip generation estimate demonstrating that proposed development will not cause the subarea to exceed two hundred seventeen (217) total cumulative p.m. peak hour trips.

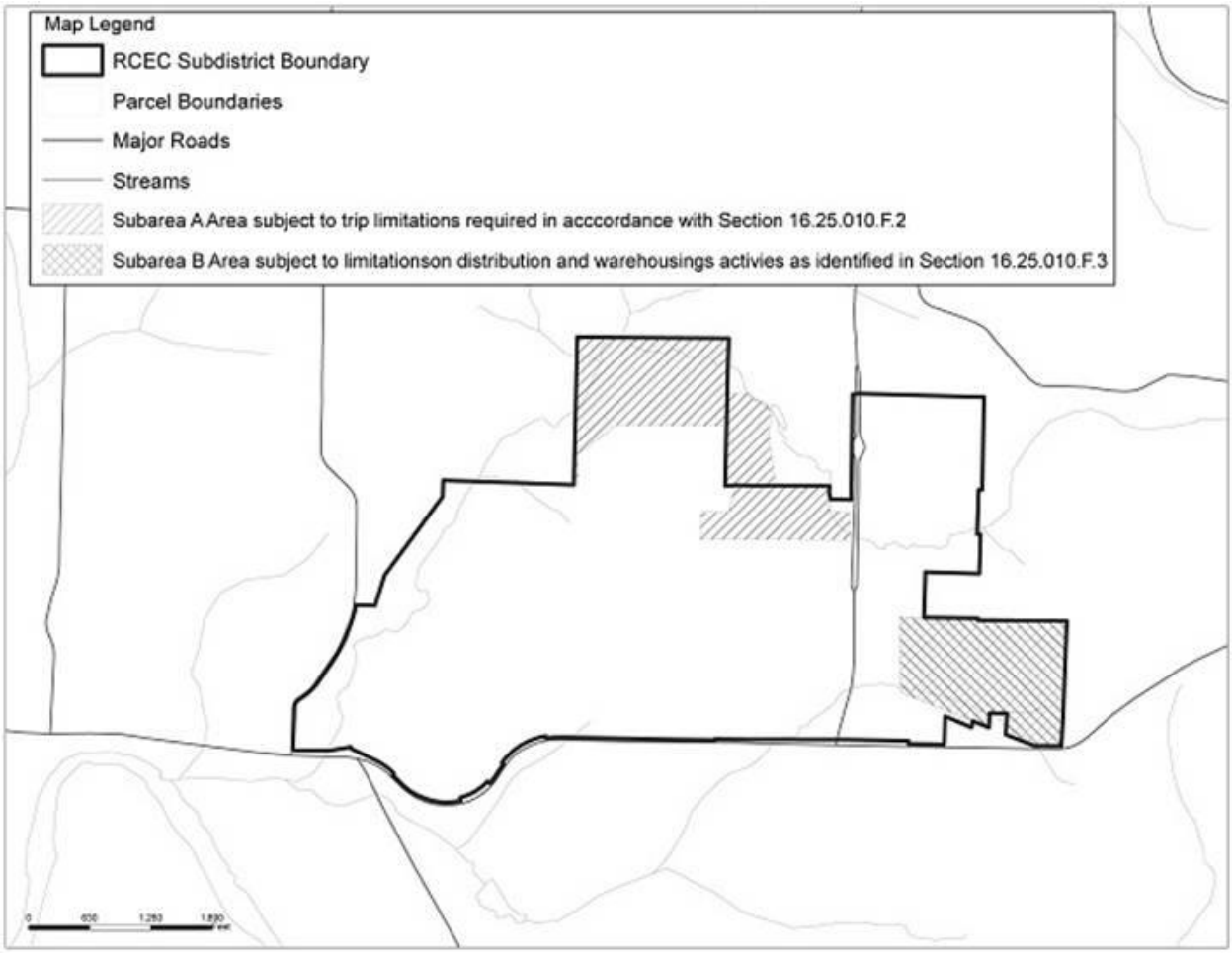
c. The trip limitation of two hundred seventeen (217) p.m. peak hour trips may be exceeded if an applicant can demonstrate that there are funded transportation projects in the area to accommodate the additional trips or if a subsequent traffic analysis shows that additional traffic will not have a significant effect on the transportation system.

3. Subarea B—Distribution Center and Warehouses. Distribution centers and warehouses are permitted as primary uses within the area identified as Subarea B on Figure 16.25.010-1 and are exempted from the provisions of Chapter 16.65 (Master Planned Developments) provided:

a. At least eight percent but not more than forty (40) percent of the gross floor area square footage of the distribution center or warehouse facility is executive and/or administrative offices related to the operation of the distribution center or warehouse; or,

b. The distribution center or warehouse is intended and designed to accommodate at least one employee per two thousand (2,000) square feet of gross floor area.

Figure 16.25.010-1 Rock Creek Employment Center Subdistrict



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ARTICLE 16.3 SPECIFIC AREA PLAN DISTRICTS AND OVERLAY ZONES

Chapter 16.31 ROCK CREEK PLANNED MIXED USE DISTRICT (PMU)

16.31.010 Purpose.

A. In conjunction with the development of the Rock Creek Comprehensive Plan to establish an area outside of the City core (i.e., outside the 1992 UGMA) that allows a mixture of land use types, including attached housing, retail sales, offices, commercial services and encourages linked transportation trips among these uses, this district is guided by a master plan approved by the City that outlines the general and specific land uses and permits phasing of development. The district is intended to provide flexibility to anticipate local needs and market changes for City residents. Development in the Planned Mixed Use (PMU) District encourages public spaces, for better pedestrian and bicycle travel as well as a transition between high traffic streets and local residential neighborhoods. The Planned Mixed Use District in Happy Valley reinforces the concentration and intensity of uses planned in the 2040 Framework Plan. The district encourages efficient site utilization, including use of gross average density, reduced yard setbacks, and shadow plans.

B. The PMU District requires development over five acres to submit a master plan for approval. Once a master plan is approved for the PMU District, detailed development plans will be reviewed through the subdivision, PUD and/or design review process as described in Chapter 16.62.

C. For all properties located within the Rock Creek Comprehensive Plan Area, whether illustrated with an underlying Clackamas County zone, PMU designation or City zone on the City's Comprehensive Plan map/zoning map, the master plan or individual Comprehensive Plan map amendment/zone change will establish districts to demarcate the general location of commercial, employment and residential areas (mixed use commercial (MUC); mixed use employment (MUE); neighborhood commercial subdistrict (MUE-NC); and mixed use residential (MUR) through a Comprehensive Plan map amendment/zone change process, pursuant to the requirements of Chapter 16.67 of the LDC. For any parcel less than five acres in size, and thus not requiring a master plan, application of a mixed use commercial, employment or residential district shall also be the subject of a Comprehensive Plan map amendment/zone change, pursuant to the requirements of Chapter 16.67 of the LDC. The master plan shall further distinguish the general location of sub-areas within the residential district that will indicate where there will be a mixture of uses and residential areas by intensity of residential density. The commercial district does not require the identification of sub-areas. The general type of commercial uses are limited to retail, office and mixed use centers, all of which are permitted within the MUC District and to a limited extent within the MUR District. The master plan process is directed by Section 16.31.020.

16.31.020 Master plan required.

The PMU District encourages creative development patterns and well planned provision of infrastructure and uses. The district allows a variety of commercial uses and residential dwelling types and densities. The flexibility that is built into the Rock Creek Comprehensive Plan and PMU zone requires a property owner to prepare a detailed plan and study of property resulting in a master plan, which delineates residential and commercial boundaries and provides for phasing of development that can be implemented over time. The master plan process also provides certainty for the City and neighbors who will know with some detail, the amount of open space, location of commercial activity areas, major transportation routes and planned densities and housing types allowed in the Rock Creek Comprehensive Plan Area.

A. A master plan in accordance with the process outlined in Chapter 16.65 is required for mixed use developments over five acres.

B. Criteria for Approval.

1. Master plan is consistent with the purpose of this section, and meets the requirements Chapter 16.65;

2. Master plan is consistent with the applicable provisions of the Happy Valley Comprehensive Plan and Land Development Code;

3. If a master plan is proposed for a portion of contiguous ownership, then master plan must show transportation connections and other major functions on the contiguous land not included in the master plan;

4. A development agreement(s) is in place, or is part of the conditions of approval for a master plan. Development agreements provide a legal contract between the property owner and the City to provide for on-site and off-site improvements and development costs.

C. Site plan and platting as needed are required for development (if not completed during the master plan process). Once a master plan is approved, the applicant shall prepare a site plan and go through the design review process, and/or go through the land division process in order to develop land.

16.31.030 Planned mixed use development standards.

A. Setbacks and Yards.

1. Standards are flexible and shall be determined through the master plan or a design review process.

2. Criteria for Review. The master plan shows commercial and mixed use buildings fronting the public right-of-way or private accessways where possible and provides for small front yard setbacks to create a more active streetscape.

B. Width and Depth.

1. Standards are flexible and shall be determined through the master plan process or a design review.

2. Criteria for Review. The general standards outlined in Chapter 16.63.

C. Tree Removal. Tree removal is not permitted in conjunction with a master plan, but rather must be applied for in compliance with Section 16.42.050 in conjunction with a concurrent or subsequent land division or site design review application.

D. Landscaping, Street Trees and Buffering.

1. The mixed use district shall have street trees and landscaping to create attractive developments, especially in the residential areas. Use of existing mature trees shall be utilized pursuant to Chapter 16.42. Standards are flexible and shall be determined where detail is available through the master plan. Hardscaping, such as plazas, and courtyards can count as landscaped areas if they are accessible to all users of a particular development.

2. Criteria for Review.

a. Within fifty (50) feet of established single-family residential uses, there will be a vegetative buffer of at least ten (10) feet in depth, planted with evergreen trees or other screening materials to screen adjacent uses from development that is more intense than the existing residential uses. Where possible, existing evergreen vegetation will be left in the vegetative buffer area.

b. Landscape plans are required in the master plan process, and they shall use the standards in Chapter 16.42 as a guideline for basic landscaping features, planting materials, and provisions. Where future development areas are indicated on the master plan, detailed landscape plans shall be submitted in accordance with Chapter 16.42 during the design review process.

c. Due to the increased intensity of development in the Planned Mixed Use District, hardscaping is allowed to be included in the landscaping calculations, but not in the vegetative buffer, described in subsection (D)(1) of this section.

E. Land Division Processes.

1. PMU lands require a master planning process that includes a public hearing in front of the Planning Commission for consideration and approval. Concurrent or subsequent partitions, subdivisions or PUDs may be filed by the applicant, pursuant to the provisions of this title.

2. Partitions, subdivisions, and PUDs covered by a master plan shall be in conformance with the approved master plan.

F. Design Review Process for Master Planned Areas.

1. Development on PMU lands requires an extensive master planning process that includes a public hearing before the Planning Commission for consideration and approval. Consideration of the master plan for approval involves examination of design elements such as landscaping, typical building elevations, pedestrian pathways, and identification of open space within the greater subject site area. However, development subject to a design review application submitted with a master plan shall be coordinated with the master plan approval under the Design Review II process pursuant to the review criteria and process described in Chapters 16.46 and 16.62.

2. Design Review II Concurrent with Master Plan Approval. The master plan process gives the applicant the opportunity to submit development applications at the same time and request coordinated reviews. At the applicant’s request, a site specific design review process and review as described in Chapter 16.62 shall be concurrent with the master plan process.

Chapter 16.32 STEEP SLOPES DEVELOPMENT OVERLAY ZONE

16.32.010 Purpose.

Slope constrained lands are regulated by the steep slopes development overlay (SSDO). The purpose of the SSDO is to:

A. Contribute to compliance with Statewide Planning Goal 7 (Areas Subject to Natural Disasters and Hazards). For Goal 7, with exceptions, the SSDO specifically minimizes seismic and landslide hazards and soil erosion associated with development on steep or unstable slopes.

B. Regulate development and provide special protection on lands within "conservation slope areas" and "transition slope areas" as follows:

1. Except as exempted pursuant to Section 16.32.045, development activities on conservation slope areas are prohibited. Except as allowed by Section 16.32.040(D)(1), conservation slope areas include:

a. Slopes twenty-five (25) percent and greater (for designation as conservation slope area, the minimum contiguous extent for slopes twenty-five (25) percent and greater shall be one thousand (1,000) square feet);

b. Potentially Hazardous Analysis Areas (lands within twenty-five (25) feet of the top or toe of slopes twenty-five (25) percent and greater) identified by a certified geotechnical engineer;

c. Areas containing potentially rapidly moving landslide hazard areas mapped by the Oregon Department of Geology and Mineral Industries (DOGAMI).

2. Within transition slope areas, conservation and development are balanced. Except as allowed by Section 16.32.040(D)(2), transition slope areas include:

a. Slopes 15 to 24.99 percent (for designation as transition slope area, the minimum contiguous extent for slopes 15 to 24.99 percent shall be one thousand (1,000) square feet and the land must not be otherwise designated as a conservation slope area).

C. Limit the potential residential density and facilitate transfer of development away from slope constrained lands.

D. Slope constrained lands in Happy Valley require special protection because they:

1. Are generally more difficult and expensive to serve with urban infrastructure as compared to less steep lands;

2. Provide wildlife habitat, tree canopy, and other environmental benefits;

3. Are located at the headwaters of watersheds that provide clean drinking water to downstream users, including Happy Valley residents;

4. Contribute to the scenic landscape of Happy Valley which is a strong part of the City's identity and livability;

5. Are often adjacent to regulated natural resource areas and/or public green spaces; and

6. Can, if developed, cause harm to persons and/or structures via stormwater runoff, landslide, mudslide, tree windthrow and other natural actions that may pose a hazard to the public health, safety and welfare.

16.32.020 Applicability.

Unless excepted by the provisions of Section 16.32.045 of this title, the regulations of the steep slopes development overlay shall apply to any existing lot of record with slopes greater than fifteen (15) percent (with a minimum contiguous extent greater than one thousand (1,000) square feet), potentially hazardous analysis areas identified by a certified geotechnical engineer, and/or DOGAMI landslide hazard areas except as allowed by Section 16.32.040(D). This section shall apply only to activities and uses that require a building, grading, tree removal and/or land use permit and per ORS 92.040, shall not apply to parcels or lots created between April 21, 1999 and April 21, 2009. The steep slopes development overlay will be overlaid on any and all applicable parcels within the City limits at the time of development application and, upon being overlaid, will take precedence in density calculations over the base zoning district illustrated on the City's Comprehensive Plan map/zoning map, and actual site specific conditions shall take precedence over any aerial topography mapping or other non-survey specific datum.

16.32.030 General provisions.

No person shall develop property in areas within the steep slopes development overlay without first demonstrating compliance with this section.

A. As a condition of permit issuance or land use approval, the applicant shall agree to implement the recommendations of approved studies and to allow all inspections to be conducted.

B. Where a bond, letter of credit, or other guarantee is required, the permit shall not be issued until the bond or guarantee has been obtained and approved.

16.32.040 Designation of buildable lands.

A. For the purposes of the SSDO, buildable lands include:

1. Lands not designated conservation slope area or transition slope area;

2. Buildable portions of transition slope areas according to the sliding scale as described in Section 16.32.040(C);

3. Isolated conservation slope or transition slope areas as described in Section 16.32.040(D), below.

B. In addition to the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map, the text provisions of this section shall be used to determine whether applications may be approved within the SSDO. The following maps and documents may also be used as references for identifying areas subject to the requirements of this section:

1. Locally adopted studies or maps;

2. City of Happy Valley slope analysis maps;

3. Mapped DOGAMI potentially rapidly moving landslide hazard areas.

C. Sliding Scale. Transition slope areas are intended to provide for limited development in balance with slope protection measures, therefore, the amount of development within transition slope areas shall be based on a sliding scale of impact intended to allow limited development within

those parcels that are more encumbered with sloped lands. The sliding scale determines the amount of buildable and unbuildable transition slope area for a given site as follows:

1. If a parcel has fifty (50) percent or more of its total site area in transition slope area and conservation slope area, a maximum of fifty (50) percent of the transition slope area is designated buildable and may be developed;

2. If a parcel has 20—49.99 percent of its total site area in transition slope area and conservation slope area, a maximum of forty (40) percent of the transition slope area is designated buildable and may be developed;

3. If a parcel has 0—19.99 percent of its total site area in transition slope area and conservation slope area, a maximum of thirty (30) percent of the transition slope area is designated buildable and may be developed.

D. Designation of Isolated Conservation Slope or Transition Slope Areas as Buildable. Through a Type II Environmental Review, an isolated pocket of conservation slope or transition slope Area on a property may be designated as buildable land. The applicant must demonstrate the following:

1. For Conservation Slope Areas:

a. The contiguous extent of the area is three thousand (3,000) square feet or less;

b. There are no other conservation slope areas or transition slope areas within fifty (50) feet; and

c. The required special studies and reports have been prepared in accordance with Section 16.32.080, evaluating the site conditions and determining that the conservation slope area can be safely developed.

2. For transition slope areas or for areas with a combination of conservation slope area and transition slope area:

a. The contiguous extent of the area is six thousand (6,000) square feet or less and less than fifty (50) percent of the area is within a conservation slope area;

b. There are no other conservation slope areas or transition slope areas within fifty (50) feet; and

c. The required special studies and reports have been prepared in accordance with Section 16.32.080, evaluating the site conditions and determining that the transition slope area can be safely developed.

16.32.045 Exceptions.

A. An activity that avoids conservation slope areas and transition slope areas.

B. The following activities, regardless of location:

1. An excavation that is less than three feet in depth, or which involves the removal of a total of less than fifty (50) cubic yards of volume;

2. A fill that does not exceed three feet in depth or a total of fifty (50) cubic yards of fill material;

3. New construction or expansion of a structure resulting in a net increase in ground floor area of less than one thousand (1,000) square feet that does not involve grading;

4. Emergency actions required to prevent an imminent threat to public health or safety, or prevent imminent danger to public or private property, as determined by the public works director; or

5. Any land use or activity that does not require a building permit or grading permit, or land use approval.

C. Development of employment, industrial or commercial uses on Employment, Industrial or Commercial designated lands that are not otherwise encumbered by the City's Natural Resource Overlay Zone (NROZ) and that abut an existing or planned Collector or Arterial roadway as illustrated within the City's Transportation System Plan (TSP).

D. Development of lands within the Aldridge Road Subarea Comprehensive Plan that are not otherwise encumbered by the City's Natural Resource Overlay Zone (NROZ) to the envisioned density and approximate development pattern illustrated within Plan "E" of the Aldridge Road Subarea Comprehensive Plan.

E. Transition or conservation slope areas that are "man-made" or caused by past soil fill/removal and grading activities so long as required special studies and reports have been prepared in accordance with Section 16.32.070, evaluating the site conditions and determining that the slope area can be safely developed.

F. A building, grading, or tree removal permit on a lot or parcel created after April 21, 2009 which received approval of an environmental review permit pursuant to Section 16.32.080 or a proposed building permit on a lot in an existing subdivision or parcel in an existing partition that was finalized prior to City of Happy Valley record-keeping processes.

G. An activity that is determined by the planning official to be reasonably similar to the exceptions listed in this section.

16.32.050 Permitted uses.

A. Unless excepted or exempt, permitted uses within unbuildable slope areas are limited to the following:

1. Open space and trails constructed consistent with the provisions of Title 16 of the Engineering Design and Standard Details Manual;

2. Removal of refuse and permitted fill;

3. Planting of native vegetation and removal of non-native/invasive species, dead or dying trees or vegetation that is hazardous to the public;

4. Construction, re-construction or expansion of public utilities and infrastructure (including both public roads and private streets) that is necessary to support permitted development;

5. Construction, re-construction or expansion of a single-family residence on a legal lot of record under the following prescribed conditions:

a. The applicant must demonstrate that the lot has received prior planning approval from either the City of Happy Valley, or if annexed, from Clackamas County, and that

there is insufficient buildable land on the same lot to allow the proposed construction or expansion;

b. The engineering, building permit, erosion control, water quality, and re-vegetation standards of this title have been fully satisfied;

c. The residence or addition has been sited so as to minimize excavation and disturbance to native vegetation within the steep slopes development overlay area;

d. The maximum impervious surface coverage from development shall be three thousand five hundred (3,500) square feet. This standard may be exceeded to allow a private driveway design and location that reduces adverse impacts to protected areas if the applicant demonstrates that a longer driveway will facilitate driveway construction that will either more closely follow hillside contours, and thereby reduce overall cut and fill area by at least twenty (20) percent; or avoid tree clusters and thereby reduce by at least twenty (20) percent the number of trees (six-inch caliper at breast height or greater) that must be removed; and

6. Development shall not result in cuts or fills in excess of three feet except for basement construction unless specifically approved by the Building Official and City Engineer;

7. Repair or stabilization of unstable slopes.

B. Permitted uses within the buildable lands, as defined by this title are limited to the following:

1. All uses listed in subsection A above; and

2. Uses permitted in the base zone in approved buildable areas.

16.32.060 Platting of new parcels or lots.

Unless exempted in Section 16.32.045, no new parcel or lot shall be platted or approved for development exclusively within conservation slope areas.

16.32.070 Required maps, studies, and reports.

A. Maps. To determine the location of potentially slope constrained areas, the applicant shall submit a scaled topographic map at two-foot contour intervals for the subject property (site) for lands less than fifteen (15) percent in slope, and at five-foot contours for lands fifteen (15) percent and greater in slope and for land within one hundred fifty (150) feet of the site perimeter. This map shall be prepared by a licensed, professional engineer or land surveyor and shall show:

1. Slopes of twenty-five (25) percent and greater;

2. Potentially hazardous analysis areas identified by a certified geotechnical engineer, including the analysis area parallel to and within twenty-five (25) feet of the top of the twenty-five (25) percent slope break and the analysis area parallel to and within twenty-five (25) feet of the toe of the slope;

3. Mapped DOGAMI potentially rapidly moving landslide hazard areas;

4. Transition slope areas; and

5. The area (in square feet) for each category listed above for the subject property.

B. Studies and Special Reports. The City Engineer may require, when known or perceived site or area circumstances indicate such particular need, the submittal of one or more of the following

studies and/or special reports for any permit or development located within the SSDO. The requirement for such studies will be in writing and will be tied to specific code standards, criteria and/or requirements:

1. Studies.

   a. Geological Assessments. Geological assessments are prepared and stamped by a Certified Engineering Geologist and describe the surface and subsurface conditions of a site, delineate areas of a property that may be subject to specific geologic hazards, and assess the suitability of the site for development. Geological assessments shall be conducted and prepared according to the requirements and recommendations of the Oregon State Board of Geologist Examiners, and shall make recommendations as to whether further studies are required, and may be incorporated into or included as an appendix to the geotechnical report;

   b. Engineering Geology Reports. Engineering geology reports are prepared and stamped by a Certified Engineering Geologist and provide detailed descriptions of the geology of the site, professional conclusions and recommendations regarding the effect of geological conditions on the proposed development, and opinions and recommendations covering the adequacy of the site to be developed. Engineering geology reports shall be prepared in accordance with the requirements of the Guidelines for Preparing Engineering Geology Reports in Oregon adopted by the Oregon State Board of Geologist Examiners and may be incorporated into or included as an appendix to the geotechnical report; and

   c. Geotechnical Reports. Geotechnical reports are prepared and stamped by a Geotechnical Engineer, evaluate site conditions, and recommend design measures necessary to reduce the development risks and facilitate safe and stable development. Geotechnical reports shall be conducted and prepared according to the requirements and recommendations of the Oregon State Board of Geologist Examiners, and may be incorporated into or included as an appendix to the Engineering Geology Report.

2. Special Reports.

   a. Hydrology and Soils Report. This report shall include information on the hydrological conditions on the site, the effect of hydrologic conditions on the proposed development, the proposed development's impact on surface and groundwater flows to wetlands and streams, and any hydrological or erosion hazards. This report shall also include soils characteristics of the site, their suitability for development, carrying capacity, and erosion or slumping characteristics that might present a hazard to life and property, or adversely affect the use or stability of a public facility or utility. Finally, this report shall include information on the nature, distribution and strength of existing soils; the adequacy of the site for development purposes; and an assessment of grading procedures required to impose the minimum disturbance to the natural state. A licensed, professional engineer registered in Oregon shall prepare the hydrology and soils report;

   b. Grading Plan. The grading plan shall be specific to a proposed physical structure or use and shall include information on terrain (two-foot intervals of property), drainage, direction of drainage flow, location of proposed structures and existing structures which may be affected by the proposed grading operations, water quality facilities, finished contours or elevations, including all cut and fill slopes and proposed drainage channels.

Project designs, including but not limited to, locations of surface and subsurface devices, walls, dams, sediment basins, storage reservoirs, and other protective devices, shall form part of the submission. The grading plan shall also include: (i) construction phase erosion control plan consistent with the provisions of Title 15 of the City's Municipal Code; and (ii) schedule of operations. A licensed, professional engineer registered in Oregon shall prepare the grading and erosion control plan; and

c. Native Vegetation Report. This report shall consist of a survey of existing vegetative cover, whether it is native or introduced, and how it will be altered by the proposed development. Measures for re-vegetation with native plant species will be clearly stated, as well as methods for immediate and long-term stabilization of slopes and control of soil erosion. A landscape architect, landscape designer, botanist or arborist with specific knowledge of native plant species, planting and maintenance methods, survival rates, and their ability to control erosion and sedimentation shall prepare the vegetation report. The applicant shall be responsible for replacing any native plant species that do not survive the first two years after planting, and for ensuring the survival of any replacement plants for an additional two years after their replacement.

C. Compliance with Study Conclusions and Recommendations.

1. Professional Standards. The City Engineer shall determine whether Geological Assessments, Engineering Geology Reports, or Geotechnical Reports have been prepared in accordance with this title. The City Engineer may require additional information or analysis necessary to meet study requirements.

2. Peer Review. The City Engineer may require peer review of any required report, in which case regulated activities and uses shall be reviewed and accepted through the peer review process before any regulated activity will be allowed. The cost of such peer review shall be borne by the applicant. If peer review is required, the City Engineer shall provide the applicant, in writing, the reasons for the peer review.

a. A professional or professional firm of the City's choice that meets the qualifications listed in this chapter shall perform the review.

b. The review shall be at the applicant's expense.

c. Review of report submittals shall determine whether required elements are completed, geologic report procedures and assumptions are accepted, and all conclusions and recommendations are supported and reasonable.

3. Review Criteria. The approval authority shall rely on the conclusions and recommendations of the required reports, as modified by peer review, as well as any rebuttal material supplied by the applicant, to determine compliance with this section.

4. Conditions of Approval. After review of the peer review report(s) and any rebuttal materials submitted by the applicant, conclusions and recommendations stated in approved reports shall be directly incorporated as permit conditions or provide the basis for conditions of approval for the regulated activity or use.

5. Expiration. Where an approved assessment or report as defined by this chapter has been prepared within the last five years for a specific site, and where the proposed land use activity and surrounding site conditions are unchanged, that report may be utilized and a new report is not required. Should environmental conditions associated with the site or surrounding the site

change, or if the proposed land use activity or development has materially changed, the applicant shall submit an amendment to the required assessment or report, which may be reviewed and approved through the peer review process.

16.32.080 Environmental review permit.

Development proposals that are subject to the provisions of Chapter 16.32 require an environmental review permit application. Environmental review permits will be reviewed through a Type II procedure, pursuant to Section 16.61.030. (Ord. 474 § 1, 2015; Ord. 389 § 1(Exh. A), 2009)

16.32.090 Density and density transfers.

Within conservation slope areas and DOGAMI potentially rapidly moving landslide hazard areas, a maximum density of one dwelling unit per acre applies. Within transition slope areas, a maximum density of two dwelling units per acre applies for all zones except for the very low density residential zones in 16.22.020 in which a maximum density of one dwelling unit per acre applies. The aggregate density will be rounded down. Density calculations shall be made and may be transferred within the site pursuant to Section 16.63.020(F). Where there are multiple density limitations based on the environmental overlay, the most restrictive applies.

16.32.100 Site design criteria.

Development within the SSDO shall comply with the following site design criteria:

A. Development is sited on lands less than fifteen (15) percent slope lands within the same parcel or on other parcels which are a part of the application, to the greatest degree practicable;

B. Significant trees and other resources are protected and/or incorporated into the site design;

C. Lands that remain undeveloped are coordinated with open space in adjacent parcels and natural resource areas, so that such areas, in combination, form as continuous an open space system as is practicable;

D. Opportunities for linking wildlife corridors and pedestrian trails are implemented;

E. Provision of access and internal circulation routes are as short as possible and designed to work with the natural topography, maintain minimum grades and require minimum cut and fill;

F. Creation of open space tracts between proposed developments and existing developed parcels or open space tracts shall be coordinated so that such areas, in combination, will form as continuous an open space system as is practicable; and

G. Opportunities for shared access are utilized wherever practicable, and if possible may be required by the City Engineer pursuant to Section 16.41.030, Vehicular access and circulation. A variance to vehicular access and circulation standards may be granted pursuant to Section 16.71.040, Class B variances.

Chapter 16.33 HISTORIC PROPERTIES OVERLAY ZONE

16.33.010 Purpose.

The description and purpose of this overlay zone is to keep and protect features within the City that reflect the City's special and historical heritage in order to:

A. Safeguard the City's heritage as embodied and reflected in such features;

B. Encourage public awareness and knowledge of the City's history and culture;

C. Foster pride and a sense of identity with Happy Valley as a place;

D. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses.

16.33.020 Review authority.

The review of applications identified in this section shall be conducted by the Planning Commission or, if necessary, the City Council.

16.33.030 Evaluation.

A. The Historic Properties Overlay Zone shall be applied to specific features through the plan amendment process.

B. An inventory of cultural/historical features shall match that of the Oregon State Historic Preservation Office inventory. Each feature shall be evaluated according to subsection C of this section and classified as either "worthy of protection" or "not worthy of protection."

C. A decision of the Planning Commission to designate a feature "worthy of protection" shall be accompanied by findings which include:

1. A brief description of the resource;
2. Whether the feature:
    a. Exemplifies or reflects special elements of the City's history;
    b. Is identified with persons or events significant in local history;
    c. Embodies distinctive characteristics of a style, type, period or method of construction, or is a valuable example of the use of indigenous materials or craftsmanship;
    d. Is included in the official register of the Oregon State Historic Preservation Office inventory of historic and cultural resources;
    e. Is owned or controlled by a public, semipublic or not-for-profit entity; or
    f. Has already received significant effort to preserve, restore and/or maintain.

16.33.040 Designated resources.

When a resource is designated by the City, the structure or feature shall be encumbered with a Historic Properties Overlay Zone designation.

16.33.050 Permits.

A. Any alteration of the exterior of a designated historic feature, or any relocation of such a resource, shall be reviewed by the Planning Commission.

B. No development permit shall be issued for exterior alteration or relocation of any designated feature or any potential resource which is under consideration for designation while a public hearing or any appeal thereof is pending.

C. No demolition of any designated feature or any potential resource shall occur unless approved by the City Council in an advertised public hearing. (See subsection 16.33.050(E) of this section.)

D. Approval of a development permit to alter the exterior of or relocate a designated feature shall be based on findings of adherence to the following guidelines:

1. Retention of Original Construction. All original exterior details shall be preserved unless economic unfeasibility can be demonstrated. Where possible, original exterior materials shall be preserved;

2. Height. Additional stories (vertical additions) may be added to historic buildings provided:

a. The added height complies with requirements of the LDC;

b. The added height does not exceed that which was traditional for the style of the building;

c. The added height does not alter the traditional scale and proportions of the building style;

d. The added height is visually compatible with any historic building which is adjacent or within two hundred fifty (250) feet in any direction.

3. Bulk. Horizontal additions may be added to historic buildings provided:

a. The bulk of the addition does not exceed that which was traditional for the building style;

b. The addition maintains the traditional scale and proportion of the building style;

c. The addition is visually compatible with any historic building which is adjacent or within two hundred fifty (250) feet in any direction.

4. Visual Integrity of Structure. The lines of columns, piers, spandrels or other primary structural elements shall be maintained so far as is practicable;

5. Scale and Proportion. The scale and proportion of altered or added building elements and the relationship of voids to solids (window to wall) shall be visually compatible with the traditional architectural character of the historic building;

6. Material, Color and Texture. The materials, colors and textures used in the alteration or addition shall be visually compatible with the traditional architectural character of the historic building;

7. Signs and Lighting. Signs, lighting and other artificial or nonoriginal appurtenances shall be avoided where possible. However, use of such signs, lighting and other artificial or nonoriginal appurtenances, plus walls, fences, awnings and landscaping, shall be visually compatible with the traditional architectural character of the historic building.

E. Removal of a designation or approval of a permit to demolish a designated historic feature shall be based on findings of adherence to the following:

1. Compelling evidence that the original designation was in error;

2. The resource has ceased to exist or is no longer of significance to the public, based on a reevaluation of the criteria in Section 16.33.030 or

3. The property owner is bearing an unfair economic burden to maintain the historic or cultural resource. If the City Council finds evidence of the latter criterion (economic burden), it shall continue the hearing on the matter to a date certain no longer than one hundred twenty (120) days from the date the application was accepted. During this period, the City shall explore all reasonable means of protecting the resource, including exploring informational and financial assistance for the property owner or public or private acquisition and/or relocation. If, by the second hearing date a method has not been found assuring the protection of the resource, and the application has not been withdrawn, it shall be approved. If alteration or demolition of the resource is intended, a condition of approval shall be that insofar as feasible and as funds are available, the City shall obtain a pictorial and graphic history of the resource, and artifacts from the resource it deems worthy of preservation.

Chapter 16.34 NATURAL RESOURCES OVERLAY ZONE

16.34.010 Purpose.

A. The Natural Resources Overlay Zone (NROZ) is intended to be used with any underlying base zone as shown on the City of Happy Valley Zoning Map. The purpose of the Natural Resources Overlay Zone is to implement the goals and policies of the Comprehensive Plan relating to natural resources, open space and the environment. In addition, the purposes of these regulations are to achieve compliance with that portion of Statewide Planning Goal 5 relating to significant natural riparian, wildlife, and wetland resources and Title 13 of Metro's Urban Growth Management Functional Plan and water quality resources under statewide planning Goal 6 and Sections 1—4 of Title 3 of Metro's Urban Growth Management Functional Plan.

B. The NROZ is intended to protect and improve the following natural resource functions and values that contribute to water quality and fish and wildlife habitat in urban streamside areas. These functions and values include, but are not limited to:

1. Vegetated corridors to separate protected water features from development;
2. Microclimate and shade;
3. Natural stream corridors;
4. Stream flow moderation and water storage;
5. Provide filtration, infiltration and natural water purification;
6. Bank stabilization, sediment and pollution control;
7. Large wood recruitment and retention and channel dynamics; and
8. Organic material resources.

C. Further, the intent and purpose of this section is to protect and improve the following functions and values that contribute to upland wildlife habitat:

1. Large habitat patches;
2. Interior habitat;

3. Connectivity and proximity to water;

4. Connectivity and proximity to other upland habitat areas.

D. It is also intended to allow and encourage nature-friendly development, where appropriate while minimizing the impact on fish and wildlife habitat and water quality functions, and to provide mitigation standards for the replacement of ecological functions and values lost through development in natural resource areas.

16.34.020 Applicability and administration.

A. The regulations of this Natural Resources Overlay Zone shall apply to any parcel which is within two hundred (200) feet of a Protected Water Feature (creeks, rivers, streams, wetlands, natural lakes, and springs) or which contains land identified and protected under Metro's UGMFP Title 13 Habitat Conservation Areas, as currently configured, or other significant wetlands, riparian corridors, wildlife habitat, that is inventoried and mapped on the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map.

B. Unless otherwise exempted by these regulations, any development on parcels subject to this chapter must comply with the regulation contained herein. Activities subject to the review process shall include all development on properties, including:

1. Partitioning and subdividing of land;

2. New structural development;

3. Fills, excavations and modifications of drainage patterns;

4. Exterior expansion of any building or structure, or increases in impervious surfaces or storage areas;

5. Site modifications including excavation or fill, installation of new above or below ground utilities;

6. Removal of trees or the cutting or clearing of any native vegetation;

7. Resource enhancement activities.

C. The Natural Resources Overlay Zone is generally described by boundary lines shown on the City of Happy Valley Steep Slopes and Natural Resources Overlay Zone Map. Where a development application proposes development entirely outside of the NROZ, but within one hundred (100) feet of the NROZ, applicants must verify the natural resource boundaries via the procedures outlined in Section 16.34.060.

D. On the City of Happy Valley Steep Slopes and Natural Resources Overlay Zone Map land within the NROZ is designated as follows:

1. Water Quality Resource.

a. Protected Water Feature. The general location of Protected Water Features is indicated on the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map; however, the text provisions of Section 16.34.060(B) shall be used to determine the exact location.

b. Vegetated Corridor—Maximum Extent. The Vegetated Corridor (buffer) is a facility required to prevent damage to the Protected Water Feature caused by development

impacts. The boundary of the NROZ is defined by the maximum potential extent of a Vegetated Corridor, which is two hundred (200) feet from a Protected Water Feature. However, the actual width of the Vegetated Corridor area varies depending on the type of protected water feature; upstream drainage area served; and slope adjacent to the Protected Water Feature, as specified in Table 16.34.060-1.

2. Habitat Conservation Area (HCA). In some cases, additional land around a Protected Water Feature is protected on the basis of its value as riparian habitat. Habitat Conservation Areas are further designated as follows:

a. High. These areas include Habitat Conservation Areas designated as "high" on the UGMFP Title 13 Habitat Conservation Area maps, as currently configured, and all locally significant wetlands, riparian corridors, and wildlife habitat.

b. Moderate. These areas include Habitat Conservation Areas designated as "moderate" on the UGMFP Title 13 Habitat Conservation Area maps.

c. Low. These areas include Habitat Conservation Areas designated as "low" on the UGMFP Title 13 Habitat Conservation Area maps.

E. In addition to the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map, the text provisions of this section shall be used to determine whether applications may be approved within the NROZ. The following maps and documents may also be used as references for identifying areas subject to the requirements of this section:

1. Metro's UGMFP Title 13 Habitat Conservation Areas maps;

2. Metro's UGMFP Title 3 Water Quality Resource Area maps;

3. The Federal Emergency Management Agency (FEMA) Flood Insurance Rate Maps (FIRM);

4. City of Happy Valley Local Wetland Inventory (LWI) (2008);

5. City of Happy Valley significant wetlands and riparian corridors map as indicated on the local wetland inventory and adopted as part of the Comprehensive Plan;

6. Locally adopted studies or maps;

7. City of Happy Valley slope analysis maps;

8. Clackamas County soils surveys;

9. Water Environment Services (WES) stream and wetland inventories; and

10. Wetland or riparian corridor studies and delineations provided by property owners or developers by a qualified wetland scientist, biologist or engineer.

F. The requirements of this chapter apply in addition to all applicable local, state, regional and Federal development, including those for water quality resource areas and flood management areas.

16.34.030 Exemptions.

The following uses and activities are exempt from the requirements of this chapter:

A. A use or activity that avoids any impact to a Water Quality Resources and/or HCA provided that the location of the Water Quality Resource and/or HCA have been verified by the City in accordance with Section 16.34.060 and a Construction Management Plan pursuant to Section

16.34.070(B) has been submitted that demonstrates that there will be no impacts to the Water Quality Resource and/or HCA during construction.

B. A building permit for a lot platted prior to local adoption of the NROZ or a phased development project for which the applicant has previously met the application requirements, so long as the building site for new construction was identified on the original permit and no new portion of the NROZ will be disturbed.

C. Development of a property that has previously satisfied the mitigation and conservation easement requirements of this chapter or a residential property that was platted prior to September 29, 2005, may proceed in areas outside of the boundaries of the recorded conservation easement or open space tract without further review. Uses listed as exempt pursuant to a recorded conservation easement shall also be exempted from application of this chapter.

D. Farming practices and farm uses on land within an exclusive farm use zone established under ORS 215.203, within an area designated as marginal land under ORS 197.247 (1991 Edition), or on other agricultural lands, except that this exemption does not apply to buildings associated with farm practices or farm uses. “Farming practice” as used in this subsection shall have the meaning set out in ORS 30.930. “Farm use” as used in this subsection shall have the meaning set out in ORS 215.203.

E. Emergency procedures or activities undertaken which are necessary to remove or abate hazards and nuisances or for the protection of public health, safety and welfare; provided that such remedial or preventative action must take place within a timeframe too short to allow for compliance with the requirements of this Code. After the emergency, the person or agency undertaking the action shall fully restore any impacts to the natural resources resulting from the emergency action. Hazards that may be removed or abated include those required to maintain aircraft safety.

F. Maintenance, alteration, expansion, repair and replacement of existing structures provided that the building footprint is not increased.

G. Routine repair and maintenance of existing roadways, driveways, utility facilities, manmade water control facilities, stormwater pretreatment facilities, accessory uses and other development when no additional incursion into the NROZ is proposed and any disturbed areas within the NROZ are restored.

H. Maintenance of existing gardens, pastures, lawns and landscape perimeters, including the installation of new irrigation systems within existing gardens, pastures, lawns, and landscape perimeters.

I. Removal of plants identified as nuisance or prohibited plants on the Happy Valley Plant List (Appendix A) and the planting or propagation of plants identified as native plants on the Happy Valley Plant List. Handheld tools must be used to remove nuisance or prohibited plants, and after such removal all open soil areas greater than twenty-five (25) square feet must be replanted.

J. Projects with the sole purpose of restoring or enhancing wetlands, streams, or fish and wildlife habitat areas, provided that the project is part of an approved local, State, or Federal restoration, enhancement or mitigation plan.

K. In addition to the activities and uses listed above, the following additional uses and activities are exempt from the requirements of this chapter within those areas of the NROZ that are not Water Quality Resources as defined in Section 16.34.060(B):

1. Where construction of a residence was completed before January 1, 2006, the owners or residents shall not be restricted from engaging in any development that was allowed prior to September 29, 2005, unless said development required obtaining a land use decision, a building permit, or an erosion control/grading permit.

2. The alteration, expansion, or replacement of existing structures, provided that:

a. The alteration, expansion, or replacement of a structure will not intrude more than five hundred (500) square feet into the NROZ in addition to the area defined as the building footprint as of January 1, 2006; and

b. The new intrusion into the NROZ is no closer to the protected water feature than the pre-existing structure or improvement.

3. Minor encroachments not to exceed one hundred twenty (120) square feet of impervious surface such as accessory buildings, eave overhangs, exterior building improvements for access and exiting requirements, or other similar features.

4. Existing water-dependent uses that can only be carried out on, in, or adjacent to water because they require access to the water for waterborne transportation or recreation.

5. Temporary and minor clearing not to exceed two hundred (200) square feet for the purpose of site investigations and pits for preparing soil profiles, provided that such areas are restored to their original condition when the investigation is complete.

6. Low-impact outdoor recreation facilities for public use, including, but not limited to, multi-use paths, access ways, trails, picnic areas, or interpretive and educational displays and overlooks that include benches and outdoor furniture, provided that the facility meets the following requirements:

a. It contains less than five hundred (500) square feet of new impervious surface; and

b. Its trails shall be constructed using nonhazardous, pervious materials, with a maximum width of four feet.

16.34.040 Prohibited uses and activities.

Except as otherwise allowed or exempted by this chapter, the following uses and activities shall not be permitted within the NROZ:

A. New structures, development and construction.

B. Application of chemicals, uncontained areas of hazardous materials as defined by DEQ, domestic animal waste, dumping of materials of any kind, or other activities.

C. Unauthorized land clearing or grading of a site to alter site conditions (including placement of new gardens and lawns) is not allowed, and may result in the maximum requirement of mitigation/enhancement regardless of pre-existing conditions.

D. Prohibited Maintenance and Management Activities.

1. The removal of native vegetation shall not be permitted from a natural resource area unless:

a. A permit has been issued by the City in accordance with the Land Development Code; or

b. Species to be removed are identified as nuisance or prohibited plants on the Happy Valley Plant List (Appendix A).

2. No stockpiling of fill materials, parking, or storage of equipment shall be allowed within a significant natural resources or its buffer.

16.34.050 Adjustments to site design standards and density transfer.

Density calculation shall be made and may transfer within the site pursuant to Section 16.63.020(F). Where there are multiple density limitations based on the environmental overlay, the most restrictive applies. Density within the Natural Resources Overlay Zone is calculated as follows:

A. Within the high value HCA and/or the water quality resource area outside of the high or moderate HCA, ten (10) percent of area shall be considered for the purpose of calculating density. The maximum density for the area is one unit per acre.

B. Within the moderate HCA, twenty (20) percent area shall be considered for the purpose of calculating density. The maximum density for the area is one unit per acre.

16.34.060 Map verification to establish natural resource boundaries.

A. The preparation of the City of Happy Valley Steep Slopes and Natural Resources Overlay Zone Map did not include specific field observations of every individual property. The map is designed to be specific enough to determine whether further environmental review of a development proposal is necessary. If any portion of the development or alteration of the land (except those exempted by this Chapter) is located within the Natural Resources Overlay Zone boundary, then map verification is required before any development permit can be issued.

1. The map verification requirements described in this section shall be met at the time an applicant proposes a nonexempt use or activity or requests a building permit, grading permit, tree removal permit, land division approval, or some other land use decision. Where it can be clearly determined by the Planning Official that development is at least one hundred (100) feet from the NROZ and there is no impact to the Significant Resource, development may be permitted without map verification.

2. A property owner, or another person with the property owner's consent, may request to verify the location of Water Quality Resources and/or HCAs on a real property lot or parcel pursuant to this section, but said request for information shall be at the Planning Official or designee's sole discretion, based on staff availability, funding resources, and policy priorities and shall require the submittal of a public information request and resultant fee. If a person receives a verification separate from a simultaneous request for a building permit, grading permit, tree removal permit, land division approval, or some other land use decision, then the person may use the verification to satisfy the requirements of this section at any time up until five years after the date the verification was issued.

3. Map verification shall not be used to dispute whether identified resources provide the ecological functions that they are assumed to provide based on the ecological criteria used to identify them.

4. Notwithstanding any other provisions of Section 16.34.060, for utility projects undertaken by public utilities across property that is not owned by the utility, the utility shall not be

required to map or provide any information about the property except for the area within three hundred (300) feet of the location of the proposed disturbance area of the utility's project.

5. Review Procedures.

a. The Planning Official or designees making a map verification decision pursuant to Section 16.34.060(B) or 16.34.060(C) shall use the Type I administrative procedure described in Section 16.61.020.

b. The Planning Official's decision shall be based on consideration of the information submitted by the applicant, any information collected during a site visit to the lot or parcel, any information generated by prior map verifications that have occurred on adjacent properties, and any other objective factual information that has been provided to the Planning Official or designee.

c. The Planning Official or designees making a map verification decision pursuant to Section 16.34.060(D) shall use the Type II administrative procedure described in Section 16.61.030. Upon receipt of a completed application, the Planning Official or designee shall provide notice of the map verification application to Metro; to the owners of record of property on the most recent property tax assessment roll where such property is located within three hundred (300) feet of the subject property; to any neighborhood or community planning organization recognized by the City and whose boundaries include the property; and to any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the property. The Planning Official or designee shall apply the verification criteria in Section 16.34.060(D)(2) to confirm the location of any HCAs based on the HCA map, the information submitted by the applicant, any information received during the public comment period, and any additional information readily available, including information collected during a site visit to the lot or parcel. The applicant and all persons that submitted written comments shall be provided with a written explanation of the Planning Official or designee's decision.

d. Verification of the location of Water Quality Resources and HCAs as described in this section shall not be considered a Comprehensive Plan amendment.

B. Water Quality Resources—Map Verification. Water Quality Resources include the Protected Water Features and the Vegetated Corridors as specified in Table 16.34.060-1, and include all land identified and protected under Metro's UGMFP Title 3 Water Quality Resource Areas.

1. Protected Water Features include creeks, rivers, streams, wetlands, natural lakes, and springs. The general location of identified Protected Water Features is indicated on the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map; however, the text provisions of this section shall be used to determine the exact location of the Protected Water Feature.

2. The Vegetated Corridor (buffer) is a facility required to prevent damage to the Protected Water Feature caused by development impacts. The width of the Vegetated Corridor area varies depending on the type of Protected Water Feature; upstream drainage area served; and slope adjacent to the Protected Water Feature, as specified in Table 16.34.060-1. The Vegetated Corridor (buffer) is based on the horizontal distance measured perpendicular to the Protected Water Feature boundary, not the slope distance from it. To establish the size of Vegetated Corridor, the starting point for measurements from the Water Feature is the edge of bankful flow or two-year storm level or the delineated edge of a wetland. At least three slope measurements along the water feature, at no more than one hundred (100) foot increments,

shall be made for each property for which development is proposed. Depending on the width of the property, the width of the vegetated corridor will vary. The Vegetated Corridor (buffer) width is determined based on the slope of the land adjacent to the Protected Water Feature in twenty-five (25) or fifty (50) foot increments. Where the slope of the land varies within the measurement area, an Area Weighted Average slope shall be calculated. The calculation for the Area Weighted Average slope is shown in Figure 16.34.060-1; note that A, B, and C indicate different slope areas, measured horizontally.

Table 16.34.060-1 Water Quality Resources

Protected Water Feature	Upstream Drainage Area	Slope Adjacent to Sensitive Area	Width of Vegetated Corridor (Buffer)
Intermittent creeks, rivers, streams	Less than 50 acres	Any slope	25 feet
	50 to 100 acres	<25%	25 feet
	50 to 100 acres	≥25%	50 feet
	Greater than 100 acres	<25%	50 feet
	Greater than 100 acres	≥25%	100 to 200 feet depending on adjacent slope—see Figure 16.34.060-2
Perennial creeks, rivers, streams	Any upstream area	<25%	50 feet
	Any upstream area	≥25%	100 to 200 feet depending on adjacent slope—see Figure 16.34.060-2
Wetlands, lakes (natural), and springs.	Any drainage	<25%	50 feet
	Any drainage	≥25%	100 to 200 feet depending on adjacent slope—see Figure 16.34.060-3

Figure 16.34.060-1 Calculating Area Weighted Average Slope

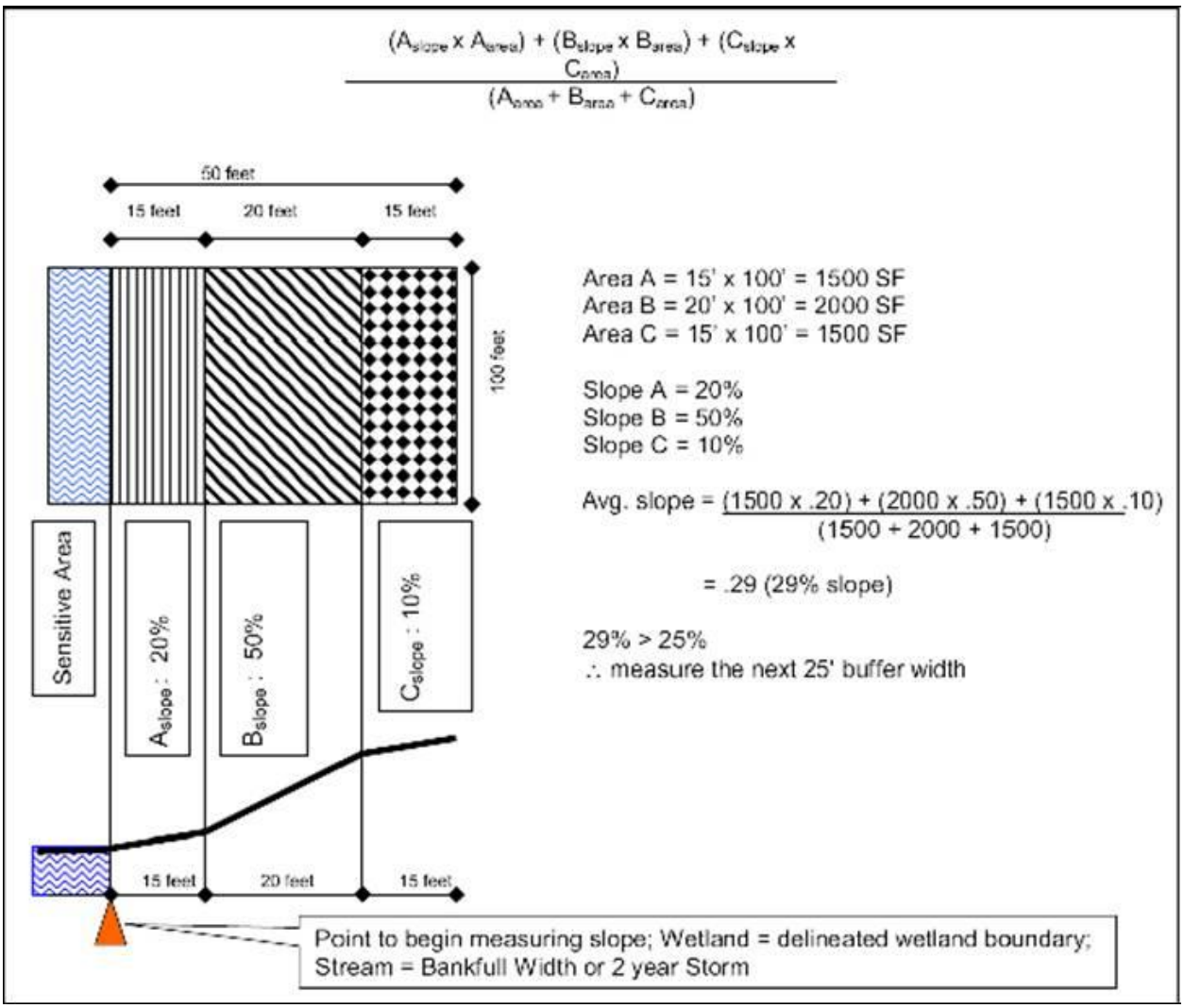
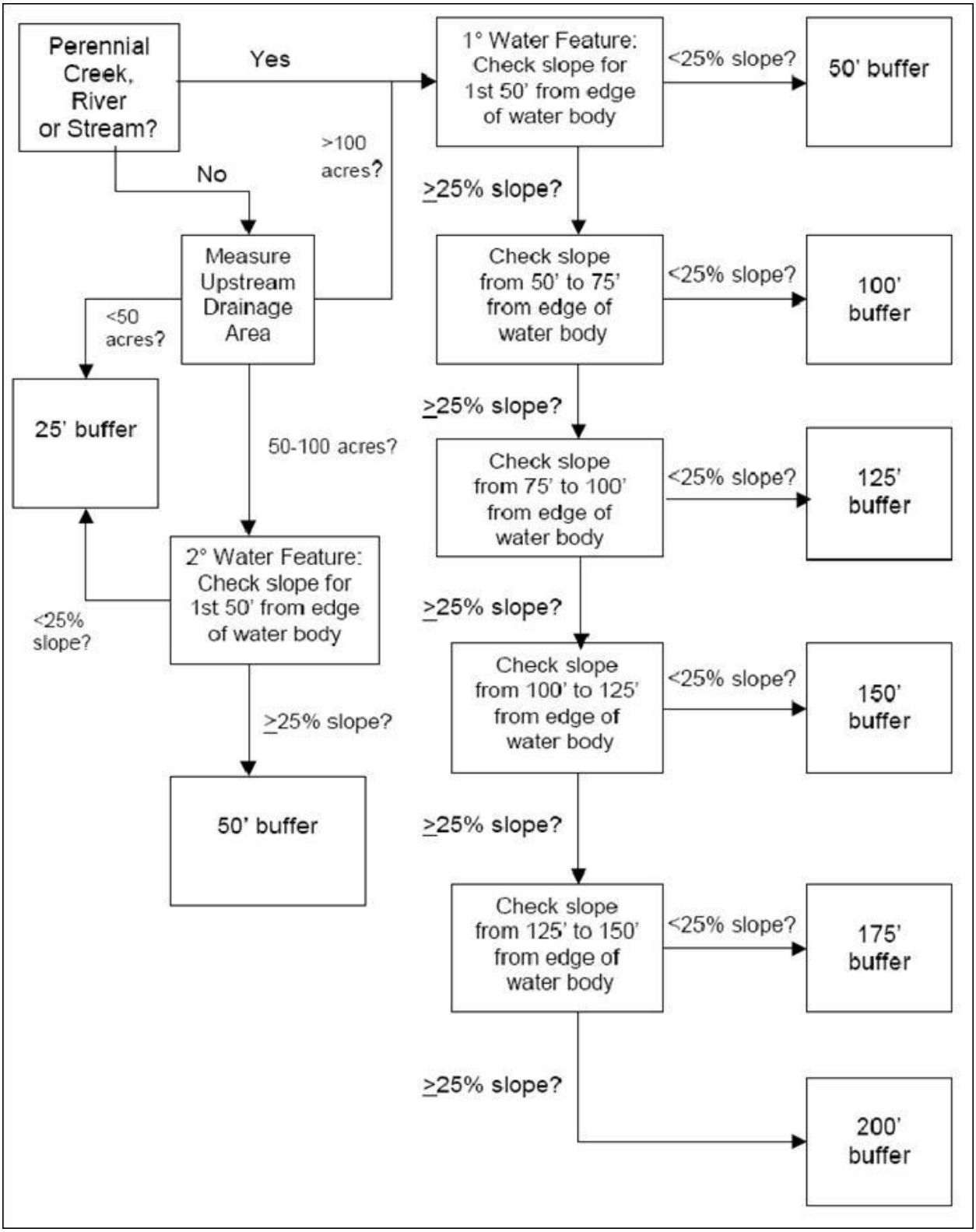
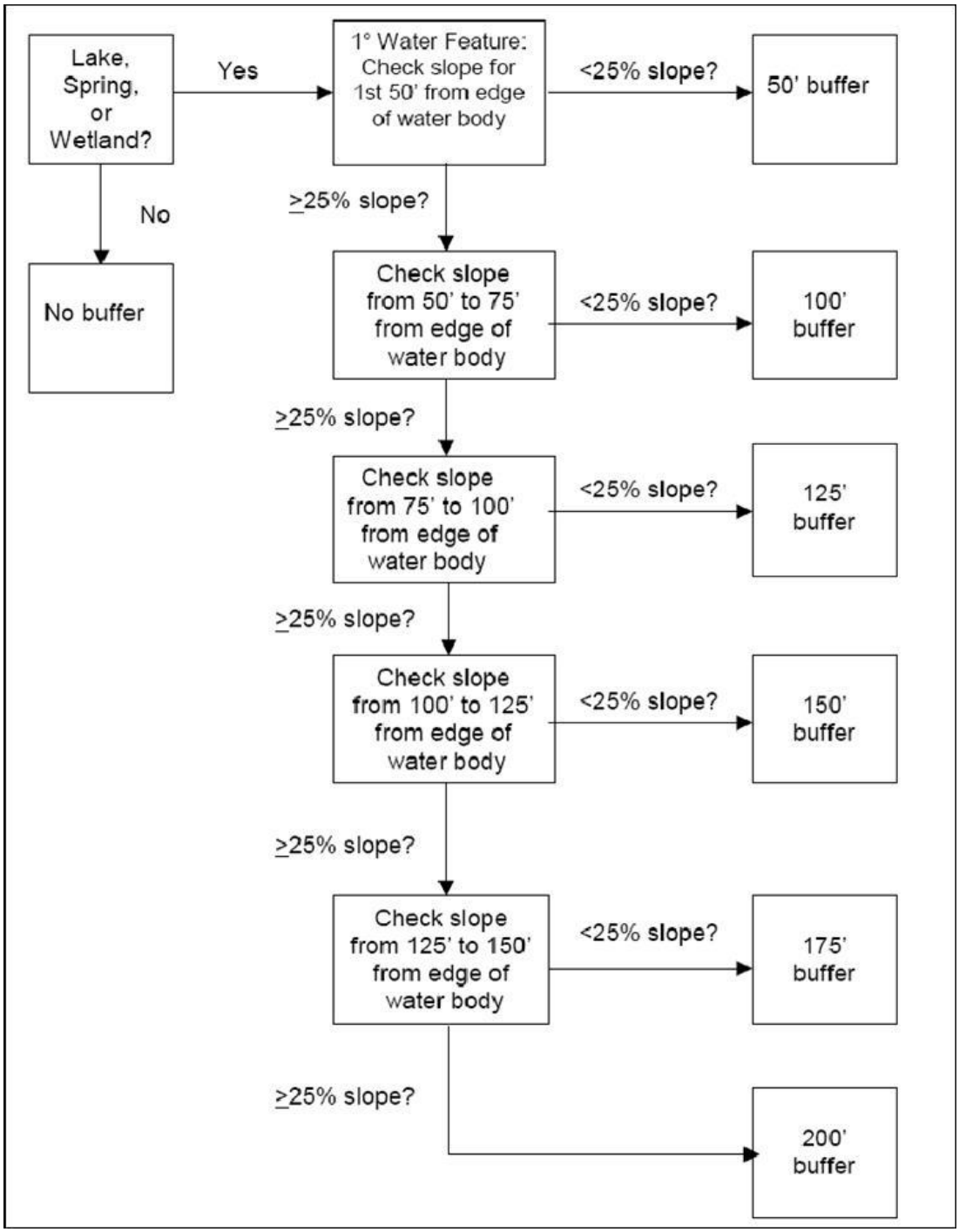


Figure 16.34.060-2 Vegetated Corridors (Buffers) for Intermittent and Perennial Creeks, Rivers, Streams*


Perennial Creek, River or Stream?
Yes
No
>100 acres?
Measure Upstream Drainage Area
<50 acres?
25' buffer
50-100 acres?
2° Water Feature: Check slope for 1st 50' from edge of water body
<25% slope?
≥25% slope?
50' buffer
1° Water Feature: Check slope for 1st 50' from edge of water body
<25% slope?
50' buffer
≥25% slope?
Check slope from 50' to 75' from edge of water body
<25% slope?
100' buffer
≥25% slope?
Check slope from 75' to 100' from edge of water body
<25% slope?
125' buffer
≥25% slope?
Check slope from 100' to 125' from edge of water body
<25% slope?
150' buffer
≥25% slope?
Check slope from 125' to 150' from edge of water body
<25% slope?
175' buffer
≥25% slope?
200' buffer

* Streams are considered perennial until proven intermittent with adequate field documentation (photos, field data), or determination by Oregon Division of State Lands.

Figure 16.34.060-3 Vegetated Corridors (Buffers) for Lakes, Springs or Wetlands



3. Delineation of Water Quality Resources. Applicants shall delineate the boundaries of the protected water feature as follows:

a. Lakes, Springs, and Wetlands.

i. Delineate boundaries using the methods described in the 1987 US Army Corps of Engineers Wetland Delineation Manual.

ii. Survey and map all wetland boundaries on the site base map.

b. Intermittent and/or Perennial Streams.

i. Identify whether the stream is perennial or intermittent. Streams are considered perennial until proven intermittent with adequate field documentation (photos, field data) or determination by Oregon Division of State Lands.

ii. For all intermittent and/or perennial streams, delineate protected water feature boundaries by identifying the top of bank of the defined channel, or the surface elevation of a two-year, twenty-four (24) hour storm event. If determining the surface elevation of a two-year, twenty-four (24) hour storm event is not possible, then the outside edge of the stream feature is determined by identifying the aerial extent of:

(A) Water marks on fixed objects (vegetation, buildings, etc.);

(B) Drift lines (deposited waterborne twigs, litter, etc.); or

(C) Waterborne sediment deposits on the soil surface or fixed objects (vegetation, buildings, etc.);

(D) Use the indicator that provides the greatest aerial cover.

c. Vegetated Corridors.

i. Follow procedures outlined in Section 16.34.060(B)(3) for determining vegetated corridor (buffer).

ii. Stake, survey, and map the boundaries of the sensitive areas and the vegetated corridor on the project site and adjacent properties within two hundred (200) feet of the property line on the base map (if access is possible) and flag them on the project site.

4. Letter of Map Amendment. The purpose of this section is to provide a process for acknowledging inaccuracies in the City of Happy Valley Steep Slopes and Natural Resources Overlay Zone Map and to officially recognize and record the correct location of protected water features.

a. Within ninety (90) days of receiving information establishing a possible error in the existence or location of a protected water feature, the City shall provide notice to interested parties of a public hearing at which the City will review the information;

b. The City shall issue a Letter of Map Amendment if the information demonstrates:

i. That a protected water feature no longer exists because the area has been legally filled, culverted or developed prior to the adoption of this chapter, or

ii. The boundaries of the NROZ have changed since adoption of the City of Happy Valley Steep Slopes and Natural Resources Overlay Zone Map.

C. Habitat Conservation Areas (HCAs)—Basic Map Verification. The basic verification approaches described below are available for applicants who believe either: (1) that the HCA map is accurate, (2) that there is a simple incongruity between the HCA map and the boundary lot lines of a property, or (3) that the property was developed prior to January 5, 2009.

1. Applicant Believes HCA Map is Accurate. An applicant who believes that the HCA map is accurate may comply with Section 16.34.060(C)(1). The applicant shall submit the following information regarding the real property lot or parcel:

a. A detailed property description;

b. A copy of the applicable HCA map;

c. A summer 2005 aerial photograph of the property, with lot lines shown, at a scale of at least one map inch equal to fifty (50) feet for lots of twenty thousand (20,000) or fewer square feet, and a scale of one map inch equal to one hundred (100) feet for larger lots. Said information is available from the Metro Data Resource Center;

d. The information required to be submitted under Section 16.34.070 or 16.34.075 if the applicant proposes development within any HCA under those provisions; and

e. Any other factual information that the applicant wishes to provide to support map verification.

2. Obvious Misalignment Between Mapped Habitat and Property Lot Lines. In some cases, the mapped vegetative cover data might not align precisely with the tax lot layer that shows property lines, resulting in a HCA map that is also misaligned with tax lot lines. An applicant who believes that the HCA map is inaccurate based on such an obvious misalignment may comply with Section 16.34.060(C)(2). The applicant shall submit the following information regarding the real property lot or parcel:

a. The information described in Sections 16.34.060(C)(1)(a) through (e); and,

b. A documented demonstration of the misalignment between the HCA map and the property's tax lot boundary lines. For example, an applicant could compare the boundary lot lines shown for roads within five hundred (500) feet of a property with the location of such roads as viewed on the aerial photograph of the area surrounding a property to provide evidence of the scale and amount of incongruity between the HCA maps and the property lot lines, and the amount of adjustment that would be appropriate to accurately depict habitat on the property.

3. Property Developed Between Summer 2002 and September 29, 2005. Where a property was developed between the summer of 2002 (when the aerial photo used to determine the regional habitat inventory was taken) and September 29, 2005, the applicant shall submit the following information regarding the real property lot or parcel:

a. The information described in Section 16.34.060(C)(1)(a) through (e);

b. A summer 2002 aerial photograph of the property, with lot lines shown, at a scale of at least one map inch equal to fifty (50) feet for lots of twenty thousand (20,000) or fewer square feet, and a scale of one map inch equal to one hundred (100) feet for larger lots, said information is available from the Metro Data Resource Center;

c. Any approved building permits or other development plans and drawings related to the development of the property that took place between summer 2002 and September 29, 2005; and

d. A clear explanation and documentation, such as supporting maps or drawings or a more recent aerial photograph, indicating the new development that has occurred and

where previously identified habitat no longer exists because it is now part of a developed area.

D. Habitat Conservation Areas (HCAs)—Detailed Verification Approach. All applicants who believe that the HCA map is inaccurate for a reason other than as described in Section 16.34.060(C) may file a verification request consistent with Section 16.34.060(D).

1. Application Requirements. The applicant shall submit a report prepared and signed by either (1) a knowledgeable and qualified natural resource professional, such as a wildlife biologist, botanist, or hydrologist, or (2) a civil or environmental engineer registered in Oregon to design public sanitary or storm systems, stormwater facilities, or other similar facilities. Such report shall include:

a. A description of the qualifications and experience of all persons that contributed to the report, and, for each person that contributed, a description of the elements of the analysis to which the person contributed;

b. The information described in Sections 16.34.060(C)(1)(a) through (e);

c. The information described in Sections 16.34.060(C)(2)(b) and 16.34.060(C)(3)(b) through (d), if the applicant believes such information is relevant to the verification of habitat location on the subject lot or parcel;

d. Additional aerial photographs if the applicant believes they provide better information regarding the property, including documentation of the date and process used to take the photos and an expert's interpretation of the additional information they provide;

e. A map showing the topography of the property shown by two-foot vertical contours in areas of slopes less than fifteen (15) percent, and at five-foot vertical contours of slopes fifteen (15) percent or greater; and

f. Any additional information necessary to address each of the verification criteria in Section 16.34.060(D)(2), a description of where any HCAs are located on the property based on the application of the verification criteria in Section 16.34.060(D)(2), and factual documentation to support the analysis.

2. Verification Criteria. The verification of the location of HCAs shall be according to the three-step process described below. A verification application shall not be considered complete and shall not be granted unless all the information required to be submitted with the verification application has been received.

a. Step 1—Verifying Boundaries of Inventoried Riparian Habitat. Locating habitat and determining its riparian habitat class is a four-step process:

i. Locate the water feature that is the basis for identifying riparian habitat.

(A) Locate the top of bank of all streams, rivers, and open water within two hundred (200) feet of the property.

(B) Locate all flood areas within one hundred (100) feet of the property.

(C) Locate all wetlands within one hundred fifty (150) feet of the property based on the City's Local Wetland Inventory. Identified wetlands shall be further delineated consistent with methods currently accepted by the Oregon

Department of State Lands (ODSL) and the U.S. Army Corps of Engineers (Corps);

ii. Identify the vegetative cover status of all areas on the property that are within two hundred (200) feet of the top of bank of streams, rivers, and open water, are wetlands or are within one hundred fifty (150) feet of wetlands, and are flood areas and within one hundred (100) feet of flood areas.

(A) Vegetative cover status shall be as identified on the Metro Vegetative Cover Map, available from the Metro Data Resource Center.

(B) The vegetative cover status of a property may be adjusted only if: (1) the property was developed prior to the time the regional program was approved (see Section 16.34.060(C)(3) above), or (2) an error was made at the time the vegetative cover status was determined. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the definitions of the different vegetative cover types provided in Chapter 16.12 (Definitions);

iii. Determine whether the degree that the land slopes upward from all streams, rivers, and open water within two hundred (200) feet of the property is greater than or less than twenty-five (25) percent using the methodology as described in Chapter 16.34.060(B); and

iv. Identify the riparian habitat classes applicable to all areas on the property using Table 16.34.060-2 and the data identified in Section 16.34.060(D)(2)(a)(i) through (a)(iii).

Table 16.34.060-2 Method for Locating Boundaries of Class I and II Riparian Areas

Distance from Water Feature	Development/Vegetation Status[1]			
	Developed areas not providing vegetative cover	Low structure vegetation or open soils	Woody Vegetation (shrub and scattered forest canopy)	Forest Canopy (closed to open forest canopy)
Surface Streams				
0—50′	Class II	Class I[2]	Class I	Class I
50′—100′		Class II[3]	Class I	Class I
100′—150′		Class II[3] if slope>25%	Class II[3] if slope>25%	Class II[3]
150′—200′		Class II[3] if slope>25%	Class II[3] if slope>25%	Class II[3] if slope>25%
Wetlands (Wetland Feature Itself is a Class I Riparian Area)				
0—100′		Class II[3]	Class I	Class I
100′—150′				Class II[2]
Flood Areas				

Distance from Water Feature	Development/Vegetation Status[1]			
	Developed areas not providing vegetative cover	**Low structure vegetation or open soils**	**Woody Vegetation (shrub and scattered forest canopy)**	**Forest Canopy (closed to open forest canopy)**
Within 300′ of river or surface stream		Class I	Class I	Class I
More than 300′ from river or surface stream	[4]	Class II[3]	Class II[3]	Class I
0—100′ from edge of flood area			Class II[3, 5]	Class II[3]

[1] The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged. As an example of how the categories were assigned, in order to qualify as "forest canopy," the forested area had to be part of a larger patch of forest of at least one acre in size.

[2] Except that areas within fifty (50) feet of surface streams shall be Class II riparian areas if their vegetation status is "Low structure vegetation or open soils," and if they are high gradient streams. High gradient streams are identified on the Metro Vegetative Cover Map. If a property owner believes the gradient of a stream was incorrectly identified, then the property owner may demonstrate the correct classification by identifying the channel type using the methodology described in the Oregon Watershed Assessment Manual, published by the Oregon Watershed Enhancement Board, and appended to the Metro's Riparian Corridor and Wildlife Habitat Inventories Report, Attachment 1 to Exhibit F to Metro Ordinance No. 05-1077C.

[3] Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (on file in the Metro Council office), shall be treated as Class I riparian habitat areas in all cases, subject to the provision of additional information that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro's Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

[4] If development prior to the effective date of Metro Ordinance No. 05-1077C within a contiguous, undeveloped flood area (to include contiguous flood areas on adjacent properties) that was not mapped as having any vegetative cover has reduced the size of that contiguous flood area to less than one half of an acre in size, then the remaining flood area shall also be considered a developed flood area and shall not be identified as habitat.

[5] Only if within three hundred (300) feet of a river or surface stream.

b. Step 2—Urban Development Value of the Property. The urban development value of property designated as regionally significant habitat is depicted on the Metro Habitat Urban Development Value Map (available from the Metro Data Resource Center).

i. A property's urban development value designation shall be adjusted upward if the Metro 2040 Design Type designation for the property lot or parcel has changed from a category designated as a lower urban development value category to one designated as a higher urban development value category. 2040 Design Type designations are identified on the Metro 2040 Applied Concept Map (available from the Metro Data Resource Center).

ii. Properties in areas designated on the 2040 Applied Concept Map as the Central City, Regional Centers, Town Centers, and Regionally Significant Industrial Areas are considered to be of high urban development value; properties in areas designated as Main Streets, Station Communities, Other Industrial Areas, and Employment Centers are of medium urban development value; and properties in areas designated as Inner and Outer Neighborhoods and Corridors are of low urban development value.

iii. As designated in Title 13 of Metro's Urban Growth Management Functional Plan, properties owned by a regionally significant educational or medical facility are designated as high urban development value.

c. Step 3—Cross-Reference Habitat Class With Urban Development Value. City and County verification of the locations of High, Moderate, and Low Habitat Conservation Areas shall be consistent with Table 16.34.060-3.

Table 16.34.060-3 Method for Identifying Habitat Conservation Areas (HCA)

Fish and Wildlife Habitat Classification	**High Urban Development Value**[1]	**Medium Urban development Value**[2]	**Low Urban development Value**[3]	**Other Areas: Parks and Open Spaces, No Design Types Outside UGB**
Class I riparian	Moderate HCA	High HCA	High HCA	High HCA / High HCA+[4]
Class II riparian	Low HCA	Low HCA	Moderate HCA	Moderate HCA / High HCA+[4]
Class A upland wildlife	No HCA	No HCA	No HCA	No HCA / High HCA[5] / High HCA+[4]
Class B upland wildlife	No HCA	No HCA	No HCA	No HCA / High HCA[5]/ High HCA+[4]

NOTE: The default urban development value of property is as depicted on the Metro Habitat Urban Development Value Map. The Metro 2040 Design Type designations provided in the following footnotes are only for use when a City or County is determining whether to make an HCA adjustment.

[1] Primary 2040 design type: regional centers, central City, town centers, and regionally significant industrial areas

[2] Secondary 2040 design type: main streets, station communities, other industrial areas, and employment centers

[3] Tertiary 2040 design type: Inner and outer neighborhoods, corridors

[4] Cities and counties shall give Class I and II riparian habitat and Class A and B upland wildlife habitat in parks designated as natural areas even greater protection than that afforded to High Habitat Conservation Areas.

[5] All Class A and B upland wildlife habitat in publicly-owned parks and open spaces, except for parks and open spaces where the acquiring agency clearly identified that it was acquiring the property to develop it for active recreational uses, shall be considered High HCAs.

16.34.070 Development standards.

For nonexempt uses and activities proposed within verified natural resources, there are three types of development standards outlined in this chapter: nondiscretionary, special use, and discretionary. As summarized below, the special use standards outlined in Section 16.34.070(D) apply to specific types of recreational, public facility and utility facilities. Individuals proposing other nonexempt uses and activities within HCAs (that are not also Water Quality Resource Areas) may use either the nondiscretionary development standards in Section 16.34.070(C) or the discretionary standards in 16.34.075. Except for the Special Uses identified in Section 16.34.070(D), individuals proposing development within a Water Quality Resource must use the discretionary review standards in Section 16.34.075.

Development Standards	Water Quality Resources	HCAs
Nondiscretionary (16.34.070(C))	No	Yes
Special use (16.34.070(D))	Yes	Yes
Discretionary (16.34.075)	Yes	Yes/No

A. Permit Requirements. Individuals proposing nonexempt development within Natural Resources (Water Quality Resources or HCAs) must provide a development plan and accompanying narrative explanation that includes the following information. All of the application requirements must be met prior to permit approval.

1. Applicants must verify the boundaries of any Water Quality Resource or HCA on their property as described in Section16.34.060.

2. For the entire subject property (including non-resource areas), applicants must submit a scale map of the property that includes:

a. Location of any wetlands or water bodies on the property, including a delineation of the Water Quality Resource Area;

b. Location of all high, moderate, and low HCAs on the property;

c. Outline of any existing disturbance area, including the location of existing adjacent streets and paved areas, utilities, culverts, stormwater management facilities, or bridges;

d. Location of 100-year floodplain and floodway boundary as defined by the Federal Emergency Management Agency (FEMA) and the area of the 1996 flood inundation; and

e. Topography shown by two-foot vertical contours in areas of slopes less than fifteen (15) percent, and at five-foot vertical contours of slopes fifteen (15) percent or greater. On properties that are two acres or larger, such a contour map is required only for the portion of the property to be developed.

3. Detailed site plan of proposed development outlining total disturbance area, including proposed building footprints, site property improvements, utilities and landscaping. The types, sizes and intensities of lights must be placed so that they do not shine directly into the NROZ.

4. The following additional information shall be provided about the HCA:

a. For properties containing less than one acre of HCA, the location of all trees within the HCA that are greater than six inches diameter at breast height (DBH), shall be identified by size and species. For properties containing one acre or more of HCA, the applicant may approximate the number of trees and the diameter range, and provide a listing of the dominant species;

b. For proposed disturbance areas containing less than one acre of HCA, all trees with a diameter of six inches or greater that will be removed shall be specifically identified as to diameter at breast height (DBH) and species. For proposed disturbance areas containing one acre or more of HCA an approximate of the number of trees, their diameters and the dominant species.

5. If grading will occur within a Water Quality Resource or HCA, a grading plan showing the proposed alteration of the ground at two-foot vertical contours in areas of slopes less than fifteen (15) percent, and at five-foot vertical contours of slopes fifteen (15) percent or greater.

6. When a property containing any Water Quality Resource is subdivided, this Code requires that new subdivision plats delineate and show the Water Quality Resource as a separate unbuildable tract. The division of properties containing HCAs are subject to Section 16.34.070(C)(5).

B. Construction Management Plans.

1. In order to ensure that trees and vegetation within the NROZ are not damaged during construction, all applicants shall provide a construction management plan that includes the following information:

a. Location of site access and egress that construction equipment will use;

b. Equipment and material staging and stockpile areas;

c. Erosion and sediment control measures; and

d. Measures to protect trees and other vegetation located within Water Quality Resources and HCAs, but outside of the disturbance area approved under the provisions of Section 16.34.070 or 16.34.075.

2. Applicants who are partitioning or subdividing, but are not simultaneously developing their property, do not need to provide a Construction Management Plan.

C. Nondiscretionary Development Standards within HCAs. The following development standards apply to all nonexempt development that occurs within the HCA except for development that occurs pursuant to the standards established by the discretionary development standards in Section 16.34.075 or the special use standards in Section 16.34.070(D).

1. Disturbance Area Limitations to Minimize Impact to HCA.

a. Detached Single-Family Residential Uses. The maximum disturbance area (MDA) allowed within HCAs is determined by subtracting the area of the lot or parcel outside of the HCAs from the total disturbance area (TDA) calculated as described in Table 16.34.070-1 below. (TDA—Area outside the HCA = MDA)

i. Moderate and Low HCAs are subject to the same disturbance area limitations.

ii. Calculation of Maximum Disturbance Area. If a lot or parcel includes both High and Moderate/Low HCAs then:

(A) If there is more High HCA than Moderate/Low HCA on the lot or parcel, then the MDA shall be calculated as if all of the Moderate/Low and High HCA were High, pursuant to Table 16.34.070-1 below; or

(B) If there is more Moderate/Low HCA than High HCA on the lot or parcel, then the MDA shall be calculated as if all of the Moderate/Low and High HCA were Moderate/Low, pursuant to Table 16.34.070-1 below.

iii. Location of MDA. If a lot or parcel includes different types of HCAs, then:

(A) The amount of development that may occur within the High HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the High HCA (TDA – non-High HCA = MDA). If the area of the lot or parcel outside the High HCA is greater than the total disturbance area, then development shall not occur within the High HCA (Area outside High HCA > TDA = no development in High HCA);

(B) The amount of development that may occur within the Moderate HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the High and Moderate HCA (TDA – (Low HCA + non-HCA) = MDA). If the area of the lot or parcel outside the Moderate HCA is greater than the total disturbance area, then development shall not occur within the Moderate HCA (Area outside Moderate HCA > TDA = no development in Moderate HCA); and

(C) The amount of development that may occur within the Low HCA is equal to the total disturbance area minus the area of the lot or parcel outside of the High, Moderate and Low HCA (TDA – non-HCA = MDA). If the area of the lot or parcel outside the Low HCA is greater than the total disturbance area, then development shall not occur within the Low HCA (Area outside Low HCA > TDA = no development in Low HCA).

b. All Other Uses. The maximum disturbance area (MDA) allowed by right within Low, Moderate and High HCAs in these zones is found in Table 16.34.070-2 below; this MDA is subject to the mitigation requirements described in Section 16.34.070(B)(4).

Table 16.34.070-1 HCA Total Disturbance Area Limitations for Detached SFR Uses

HCA Type	Total Disturbance Area
High	50 percent of the lot area, up to maximum of 5,000 sq. ft.
Moderate/Low	65 percent of the lot area, up to maximum of 6,000 sq. ft.

Table 16.34.070-2 HCA Disturbance Area Limitations for all Uses other than Detached SFR

HCA Type	Maximum Disturbance Area
High	10 percent of HCA on site
Moderate	20 percent of HCA on site
Low	50 percent of HCA on site

c. Development within an HCA in accordance with these provisions shall not result in a change of the HCA status of such developed areas on a property. In the case of a later development request seeking to develop within previously undisturbed HCAs on a property where a prior development request was subject to these provisions, the calculation of the MDA allowed on the property shall be based on the location of the HCA, notwithstanding the location of any authorized development within the HCA.

2. Protection of habitat during site development. During development of any site containing a HCA, the following standards apply:

a. Work areas shall be marked to reduce potential damage to the HCA;

b. Trees in HCAs shall not be used as anchors for stabilizing construction equipment;

c. Native soils disturbed during development shall be conserved on the property;

d. An erosion and sediment control plan is required and shall be prepared in compliance with requirements set forth in the City's Engineering Design Standards Manual;

e. Prior to construction, the HCA that is to remain undeveloped shall be flagged, fenced, or otherwise marked and shall remain undisturbed;

f. All work on the property shall conform to the Construction Management Plan described in Section 16.34.070(B).

3. Utility Facility Standards. The following disturbance area limitations apply to new utilities, private connections to existing or new utility lines, and upgrades to existing utilities.

a. The disturbance area for utility facility connections to utility facilities is no greater than ten (10) feet wide.

b. The disturbance area for the upgrade of existing utility facilities is no greater than fifteen (15) feet wide.

c. No fill or excavation is allowed within the ordinary high water mark of a stream, unless a permit is obtained from the US Army Corps of Engineers through the Standard Local Operating Procedures for Endangered Species (SLOPES) process.

d. Mitigation is required as described in Section 16.34.070(B)(4), below.

4. Mitigation requirements for disturbance in HCAs. In order to achieve the goal of reestablishing forested canopy that meets the ecological values and functions described in Section 16.34.010, tree replacement and vegetation planting are required when development intrudes into a HCA according to the following standards, except for wetlands mitigation requirements imposed by State and Federal law.

a. Required Plants and Plant Densities. All trees, shrubs and groundcover must be native plants selected from the Happy Valley Plant List (Appendix A). An applicant must meet Mitigation Option 1 or 2, whichever results in more tree plantings; except that where the disturbance area is one acre or more, the applicant shall comply with Mitigation Option 2.

i. Mitigation Option 1. This mitigation requirement is calculated based on the number and size of trees that are removed from the site. Trees that are removed from the site shall be replaced as shown in Table 16.34.070-3. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

Table 16.34.070-3 Tree Replacement

Size of Tree to be Removed (Inches in Diameter)	Number of Trees and Shrubs to be Planted
6 to 12	2 trees and 3 shrubs
13 to 18	3 trees and 6 shrubs
19 to 24	5 trees and 12 shrubs
25 to 30	7 trees and 18 shrubs
over 30	10 trees and 30 shrubs

ii. Mitigation Option 2. This mitigation requirement is calculated based on the size of the disturbance area within a HCA. Native trees and shrubs are required to be planted at a rate of five trees and twenty-five (25) shrubs per every five hundred (500) square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by five hundred (500), and then multiplying that result times five trees and twenty-five (25) shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be 330 square feet of disturbance area, then three hundred thirty (330) divided by five hundred (500) equals .66, and .66 times five equals 3.3, so three trees must be planted, and .66 times twenty-five (25) equals 16.5, so seventeen (17) shrubs must be planted). Bare ground shall be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

b. Plant Size. Replacement trees must be at least one-half inch in caliper, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees (the one-half inch minimum size may be an average caliper measure, recognizing that trees are not uniformly round), unless they are oak or madrone which may be one gallon size. Shrubs must be in at least a one-gallon container or the equivalent in ball and burlap and must be at least twelve (12) inches in height.

c. Plant Spacing. Trees shall be planted between eight and twelve (12) feet on-center and shrubs shall be planted between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted between eight and ten (10) feet on center. When planting near existing trees, the dripline of the existing tree shall be the starting point for plant spacing measurements.

d. Plant Diversity. Shrubs must consist of at least two different species. If ten (10) trees or more are planted, then no more than fifty (50) percent of the trees may be of the same genus.

e. Location of Mitigation Area. All vegetation must be planted on the applicant's site within the HCA or in an area contiguous to the HCA; provided, however, that if the vegetation is planted outside of the HCA then the applicant shall preserve the contiguous area by executing a deed restriction, such as a restrictive covenant. In addition, an off-site mitigation option is provided in a streamlined discretionary review process, but in all cases, mitigation shall be provided within the City of Happy Valley City limits.

f. Invasive Vegetation. Invasive non-native or noxious vegetation must be removed within the mitigation area prior to planting.

g. Tree and Shrub Survival. A minimum of eighty (80) percent of the trees and shrubs planted shall remain alive on the fifth anniversary of the date that the mitigation planting is completed.

h. Monitoring and Reporting. Monitoring of the mitigation site is the ongoing responsibility of the property owner. Plants that die must be replaced in kind. The developer shall submit a two-year maintenance bond covering the continued health and survival of all plantings.

i. To enhance survival of the mitigation plantings, the following practices are required:

i. Mulching. Mulch new plantings a minimum of three inches in depth and eighteen (18) inches in diameter to retain moisture and discourage weed growth.

ii. Irrigation. Water new plantings one inch per week between June 15th to October 15th, for the three years following planting.

iii. Weed Control. Remove, or control, non-native or noxious vegetation throughout maintenance period.

j. To enhance survival of tree replacement and vegetation plantings, the following practices are recommended:

i. Planting Season. Plant bare root trees between December 1st and February 28th, and potted plants between October 15th and April 30th.

ii. Wildlife Protection. Use plant sleeves or fencing to protect trees and shrubs against wildlife browsing and resulting damage to plants.

5. Standards for Partitions, Subdivisions and PUDs. The purpose of this section is to allow for partitions in a manner that limits the total amount of allowable development within HCAs on the partitioned parcels; and to require that new subdivision/PUD plats delineate and show the Moderate and High HCAs as a separate unbuildable tract. These standards apply in addition to the other land division requirements of the Happy Valley Land Development Code.

a. Standards for Partitions Containing HCAs.

i. When partitioning a property into parcels, an applicant shall verify the boundaries of the HCA on the property according to Section 16.34.060.

ii. When partitioning a property into parcels there shall be no more than a thirty (30) percentage point difference in the percentage of HCA on the parcels; for example, a partition that produces two parcels, one that is fifty-five (55) percent HCA and the other that is thirty-five (35) percent HCA is permissible; whereas a partition that produces two parcels, one that is seventy-five (75) percent HCA and the other that is thirty (30) percent HCA is not permissible. However, an applicant may partition a property such that at least ninety (90) percent of the original property's High HCA and eighty (80) percent of its Moderate HCA is on a separate unbuildable parcel, protected by a conservation easement.

iii. Subsequent development on any parcels containing HCAs shall comply with the development standards of either Section 16.34.070 or Section 16.34.075.

b. Standards for Subdivisions/PUDs Containing HCAs.

i. Applicants who are subdividing, but not constructing, structures must verify the location of the HCA boundary according to Section 16.34.060 and comply with this subsection. Applicants who are subdividing, but not constructing, structures may:

(A) Complete the mitigation requirements of Section 16.34.070(C)(4) (and, if appropriate, Sections 16.34.075(B) and 16.34.075(C)) and thereby exempt all subsequent development on lots containing HCA from further review; or

(B) Not complete the mitigation requirements of Sections 16.34.070(C)(4); 16.34.075(B); or 16.34.075(C) thus requiring that any subsequent development within an HCA be subject to this chapter.

ii. Applicants who are subdividing and developing properties must comply with Sections 16.34.060 and 16.34.070 or 16.34.075.

iii. When a property containing any HCA is subdivided, this Code requires that new subdivision/PUD plats delineate and show the Moderate and High HCA as a separate unbuildable tract according to the following process:

(A) The applicant must place at least ninety (90) percent of the High HCA and eighty (80) percent of the Moderate HCA in a separate tract.

(1) If over fifty (50) percent of the HCA on a property is of a High designation, the entire calculation is for High (i.e., ninety (90) percent of the HCA must be placed within a separate tract).

(2) If over fifty (50) percent of the HCA on a property is of a Moderate designation, the entire calculation is for Moderate (i.e., eighty (80) percent of the HCA must be placed within a separate tract).

(B) If the tract is adjacent to the backyard for residences, the minimum backyard requirement is reduced to ten (10) feet.

(C) Prior to preliminary plat approval, the Moderate and/or High HCA shall be shown as a separate tract, which shall not be a part of any lot used for construction of a dwelling unit.

(D) Prior to final plat approval, ownership of the HCA tract shall be identified to distinguish it from lots intended for sale. The tract may be identified as any one of the following:

(1) Private natural area held by the owner or homeowners association by a restrictive covenant and/or conservation easement; or

(2) For residential subdivisions/PUDs, private natural area subject to an easement conveying storm and surface water management rights to the City of Happy Valley and/or Clackamas County Service District No. 1, preventing the owner of the tract from activities and uses inconsistent with the purpose of this chapter; or

(3) Public natural area where the tract has been dedicated to the City of Happy Valley or a private nonprofit with the mission of land conservation.

D. Special Use Standards. Applications for the uses listed in subsections 5 through 7 of this section shall satisfy the following standards:

1. Water Quality Resources and HCAs shall be restored and maintained in accordance with an approved mitigation plan.

2. To the extent practicable, existing vegetation shall be protected and left in place. Work areas shall be carefully located and marked to reduce potential damage to Water Quality Resources and HCAs. Trees in the Water Quality Resources or HCAs shall not be used as anchors for stabilizing construction equipment.

3. Where existing vegetation has been removed, or the original land contours disturbed, the site shall be revegetated, and the vegetation shall be established as soon as practicable. Nuisance plants, as identified in the Happy Valley Plant List (Appendix A), may be removed at any time. Interim erosion control measures such as mulching shall be used to avoid erosion on bare areas. Nuisance plants shall be replaced with non-nuisance plants by the next growing season.

4. Prior to construction, the water quality resource area shall be flagged, fenced or otherwise marked and shall remain undisturbed except as allowed in subsections 5 through 7 of this section. Such markings shall be maintained until construction is complete.

5. Walkways and Bike Paths.

a. Wherever practicable, a gravel walkway or bike path may not be constructed closer than ten (10) feet from the boundary of the protected water feature. Walkways and bike paths shall be constructed so as to minimize disturbance to existing vegetation. Where

practicable, a maximum of ten (10) percent of the trail may be within thirty (30) feet of the protected water feature;

b. Wherever practicable, a paved walkway or bike path shall not be constructed closer than ten (10) feet from the boundary of the protected water feature. For any paved walkway or bike path, the width of Water Quality Resources or HCAs must be increased by a distance equal to the width of the path. Walkways and bike paths shall be constructed so as to minimize disturbance to existing vegetation. Where practicable, a maximum of ten (10) percent of the trail may be within thirty (30) feet of the protected water feature; and

c. A walkway or bike path shall not exceed ten (10) feet in width.

6. Municipal Water Utility Facilities Standards. Except as provided within this subsection, in addition to all other requirements of Section 16.34.075(D)(2), municipal potable water, stormwater (drainage) and wastewater utility facilities may be built, expanded, repaired, maintained, reconfigured, rehabilitated, replaced or upsized if not exempted in Section 16.34.030. These facilities may include but are not limited to water treatment plants, wastewater treatment plants, raw water intakes, pump stations, transmission mains, conduits or service lines, terminal storage reservoirs, and outfall devices provided that:

a. Such projects shall not have to comply with the requirements of Section 16.34.075(D)(2)(b); provided that, where practicable, the project does not encroach closer to a water feature than existing operations and development, or for new projects where there are no existing operations or development, that the project does not encroach closer to a water feature than practicable;

b. Best management practices will be employed that accomplish the following:

i. Account for watershed assessment information in project design;

ii. Minimize the trench area and tree removal within Water Quality Resources and HCAs;

iii. Utilize and maintain erosion controls until other site stabilization measures are established, post-construction;

iv. Replant immediately after backfilling or as soon as effective;

v. Preserve wetland soils and retain soil profiles;

vi. Minimize compactions and the duration of the work within the Water Quality Resources and HCAs;

vii. Complete in-water construction during appropriate seasons or as approved within requisite Federal or State permits;

viii. Monitor water quality during the construction phases, if applicable; and

ix. Implement a full inspection and monitoring program during and after project completion, if applicable.

16.34.075 Discretionary development standards.

There are four discretionary review processes provided in this section: subsection A of this section provides discretionary review for an applicant seeking only to partition a property; subsection B of this

section provides discretionary review for an applicant who will comply with the development standards in Section 16.34.070, except that the applicant seeks to meet the mitigation requirements of that section on a different property from the property on which a HCA will be disturbed; subsection C of this section provides discretionary review for an applicant who will comply with the development standards in Section 16.34.070, except that the applicant seeks to meet the mitigation requirements of that section by proportionally varying the number and size of plants required to be planted; and subsection D of this section (Natural Resource Review) provides general discretionary review standards applicable to an applicant seeking some other type of discretionary approval of development that will disturb a Water Quality Resource or HCA.

Within HCAs that are not otherwise Water Quality Resources, applicants may choose to use the alternative discretionary development standards provided in this section rather than the development standards provided in Section 16.34.070. However, a Natural Resource Review is required for development within Water Quality Resources. All four types of discretionary reviews will be processed in accordance with the Type II procedures in Section 16.61.030.

A. Discretionary Review for Partitions. An applicant seeking to partition land in ways that do not accord with the standards established in Section 16.34.070(C)(5) may seek review under this subsection.

1. The applicant shall verify the boundaries of the HCAs on the property according to Section 16.34.060.

2. The applicant shall submit the following application materials:

a. A scale map of the entire property that includes:

i. Location of all high, moderate, and low HCA on the property;

ii. Location of any wetlands or water bodies on, or within two hundred (200) feet of the property, including a delineation of the Water Quality Resource Area;

iii. Location of 100-year floodplain and floodway boundary as defined by the Federal Emergency Management Agency (FEMA) and the area of the 1996 flood inundation; and

iv. A delineation of the proposed partition.

b. A written and documented explanation of how and why the proposed partition satisfies the approval criteria in subsection (A)(3). Such written documentation shall include an alternatives analysis of different possible partition plans, based on the characteristics and zoning of the property.

3. Approval Criteria. A partition shall be approved under this subsection provided that the applicant demonstrates that it is not practicable to comply with the partition standards in Section 16.34.070(C)(5), and that the applicant's partition plan will result in the smallest practicable percentage point difference in the percentage of HCA on the parcels created by the partition (this will minimize the amount of allowable disturbance areas within HCAs on the parcels, assuming that the development standards in Section 16.34.070 were applied to future development on such parcels).

4. Subsequent development on any parcels created by the partition and containing HCAs shall comply with all provisions of this Code, except that the map verification completed and

approved as part of the partition may be used to satisfy the requirements of Section 16.34.060(C) for any such development.

B. Discretionary Review to Approve Off-Site Mitigation. An applicant seeking discretionary approval only for off-site mitigation within the same subwatershed (6th Field Hydrologic Unit Code), but who will comply with all other provisions of Section 16.34.070, may seek review under this subsection. An applicant who seeks to conduct the mitigation in a different subwatershed may apply for such approval under subsection D.

1. The applicant shall submit:

a. A calculation of the number of trees and shrubs the applicant is required to plant under Section 16.34.070(C)(4); and

b. A map and accompanying narrative that details the following:

i. The number of trees and shrubs that can be planted on-site,

ii. The on-site location where those trees and shrubs can be planted,

iii. An explanation of why it is not practicable for the remainder of the mitigation to occur on-site, and

iv. The proposed location for off-site mitigation and documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within a HCA, documentation that the mitigation site will be protected after the monitoring period expires, such as through the use of a restrictive covenant.

2. Approval Criteria. Off-site mitigation shall be approved under this subsection provided that the applicant has demonstrated that it is not practicable to complete the mitigation on-site and that the applicant has documented that it can carry out and ensure the success of the off-site mitigation on a property within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, and provided that, in all cases, mitigation provided is within the City of Happy Valley City limits.

3. Mitigation approved under this subsection shall be subject to all of the requirements of Section 16.34.070(C)(4), except for the requirements of Section 16.34.070(C)(4)(e).

C. Discretionary Review to Approve Mitigation that Varies the Number and Size of Trees and Shrubs. An applicant seeking discretionary approval only to proportionally vary the number and size of trees and shrubs required to be planted under Section 16.34.070(C)(4)—for example, to plant fewer larger trees and shrubs or to plant more smaller trees and shrubs—but who will comply with all other provisions of Section 16.34.070, may seek review under this subsection.

1. The applicant shall submit:

a. A calculation of the number of trees and shrubs the applicant would be required to plant under Section 16.34.070(C)(4);

b. The numbers and sizes of trees and shrubs that the applicant proposes to plant;

c. An explanation of why the numbers and sizes of trees and shrubs that the applicant proposes to plant will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results than the results that would be achieved if the

applicant complied with all of the requirements of Section 16.34.070(C)(4). Such explanation shall be prepared and signed by a knowledgeable and qualified natural resources professional or a certified landscape architect and shall include discussion of site preparation, including soil additives and removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care, including mulching, irrigation, wildlife protection, and weed control; and

d. The applicant's mitigation site monitoring and reporting plan.

2. Approval Criteria. A request to vary the numbers and sizes of trees and shrubs to be planted shall be approved if the applicant demonstrates that the proposed planting will achieve, at the end of the fifth year after initial planting, comparable or better mitigation results than the results that would be achieved if the applicant complied with all of the requirements of Section 16.34.070(C)(4). Such determination shall take into consideration all of the information required to be submitted under subsection (C)(1).

3. Mitigation approved under this subsection shall be subject to the requirements of Sections 16.34.070(C)(4)(d) through (4)(i), and it is recommended that such mitigation also follow the practices recommended in Section 16.34.070(C)(4)(j).

D. Natural Resource Review (NRR). An applicant seeking discretionary approval to undertake any development activity within a Water Quality Resource or HCA that does not comply with Section 16.34.070 and is not described in subsections A, B or C shall apply for a Natural Resource Review pursuant to subsection D. Natural Resource Review (NRR) is the discretionary process by which the City analyzes the impacts of development on natural resources, as well as measures to prevent negative impacts, and also provides mitigation and enhancement requirements. The Planning Official may consult with a professional with appropriate expertise to evaluate an applicant's NRR application prepared under this section or may rely on appropriate staff expertise, in order to properly evaluate the report's conclusions.

1. Agency Coordination. Other state and regional agencies regulate some of the natural resources that are protected by the standards of this chapter. In order to avoid unnecessary duplication, an applicant may substitute application materials prepared by another regulating agency, for the materials required by this section where these materials will provide sufficient information for the City to address the approval criteria in subsection (D)(3).

2. Application Requirements. The applicant shall provide all items described in Section 16.34.070(A), except that, for utility projects undertaken by public utilities across property that is not owned by the utility, the utility shall not be required to map or provide any information about the property except for the area within three hundred (300) feet of the location of the proposed disturbance area of the utility's project, and the applicant shall also provide all of the following:

a. A topographic map of the site with two-foot vertical contours in areas of slopes less than fifteen (15) percent, and at five-foot vertical contours of slopes fifteen (15) percent or greater showing a delineation of the Water Quality Resource, which includes areas shown on the Happy Valley Steep Slopes and Natural Resources Overlay Zone Map, and that meets the definition of water quality resource areas in Table 16.34.030-1;

b. Location of Title 3 Wetlands. Where Title 3 wetlands are identified, the applicant shall follow the Division of State Lands recommended wetlands delineation process. The delineation shall be prepared by a professional wetlands specialist;

c. An inventory, location and plan for removal of any existing debris and noxious materials;

d. An assessment of the existing condition of any Water Quality Resources, including an inventory and map of the existing plant communities including the number and area covered by each plant community present. A plant community is defined as a grouping of plants that often occur together growing in a uniform habitat. For each sample point, document the area covered by all species providing greater than five percent cover within the plot boundary. A ten (10) foot radius plot for herbs (non-woody vegetation) and a thirty (30) foot radius plot for woody vegetation are required; however, plot boundaries may be adjusted to ensure that only one plant community is represented in a plot. The inventory and map shall specify cover by native species, invasive species, and noxious species.

e. Impact Evaluation and Alternatives Analysis. An impact evaluation and alternatives analysis is required to determine compliance with the approval criteria and to evaluate development alternatives for a particular property. The alternatives must be evaluated on the basis of their impact on Water Quality Resources and HCAs, the ecological functions provided by the resource on the property, and off-site impacts within the subwatershed (6th Field Hydrologic Unit Code) where the property is located. The impact evaluation shall include the following:

i. Identification of the ecological functions of riparian habitat found on the property as described in Table 16.34.075-1.

ii. An assessment of the water quality impacts related to the development, including: sediments, temperature and nutrients, sediment control, temperature control or addressing any other condition with the potential to cause the Protected Water Feature to be listed on DEQ's 303(d) list.

iii. Evaluation of alternative locations, design modifications, or alternative methods of development to determine which options reduce the significant detrimental impacts on the HCAs and the ecological functions provided on the property. At a minimum, the following approaches must be considered:

(A) The techniques described in Section 16.34.050;

(B) Multi-story construction;

(C) Minimizing building and development footprint;

(D) Maximizing the use of native landscaping materials; and

(E) Minimal excavation foundation systems (e.g., pier, post or piling foundation).

iv. Determination of the alternative that best meets the applicable approval criteria and identification of significant detrimental impacts that are unavoidable. Where Water Quality Resources are proposed to be impacted, the applicant shall also demonstrate that no practicable alternatives to the requested development exist that will not disturb the Water Quality Resource; that development in the Water Quality Resource has been limited to the area necessary to allow for the proposed use; and that the Water Quality Resource can be restored to an equal or better condition.

Table 16.34.075-1 Ecological Functional Values of Riparian Corridors

Ecological Function	Landscape Features Providing Functional Values
Microclimate and shade	Forest canopy or woody vegetation within 100 feet of a stream; a wetland[1]; or a flood area[2].
Streamflow moderation and water storage	A wetland or other water body[3] with a hydrologic connection to a stream; or a flood area[2].
Bank stabilization, sediment and pollution control	All sites within 50 feet of a surface stream;
	Forest canopy, woody vegetation, or low structure vegetation/open soils within 100 feet of a stream or a wetland; or forest canopy, woody vegetation, or low structure vegetation/open soils within a flood area; and
	Forest canopy, woody vegetation, or low structure vegetation/open soils within 100—200 feet of a stream if the slope is greater than 25 percent.
Large wood and channel dynamics	Forest canopy within 150 feet of a stream or wetland; or within a flood area; and
	The channel migration zone is defined by the floodplain, but where there is no mapped floodplain a default of 50 feet is established to allow for the channel migration zone.
Organic material sources	Forest canopy or woody vegetation within 100 feet of a stream or wetland; or within a flood area.

NOTES:

[1] Refers to "hydrologically-connected wetlands," which are located partially or wholly within one-quarter mile of a surface stream or flood area.

[2] Developed floodplains are not identified as HCAs because they do not provide primary ecological functional value.

[3] "Other water body" could include lakes, ponds, reservoirs, or manmade water feature that is not a water quality facility or farm pond.

f. Mitigation Plan. The purpose of a mitigation plan is to compensate for unavoidable significant detrimental impacts to ecological functions that result from the chosen development alternative as identified in the impact evaluation.

i. An applicant may choose to develop a mitigation plan consistent with the requirements of Section 16.34.070(C)(4). If an applicant so chooses, then the applicant shall submit a mitigation plan demonstrating such compliance.

ii. If an applicant chooses to develop an alternative mitigation plan that would not comply with the requirements of Section 16.34.070(C)(4), including, for example, a proposal to create an alternative plant community type such as an oak savannah or a low-structure plant community, then the applicant shall submit a mitigation plan that includes all of the following:

(A) An explanation of how the proposed mitigation will adequately compensate for the impacts to ecological functions described in the impact

evaluation required by subsection (D)(2)(e). The applicant shall use the mitigation that would be required under Section 16.34.070(C)(4) as the baseline mitigation required to compensate for disturbance to a HCA that provides an average level of ecological functions. Such explanation shall include:

(1) If the applicant uses the mitigation that would be required under Section 16.34.070(C)(4) as the baseline mitigation required to compensate for disturbance to a HCA, then the applicant shall submit a calculation of the number of trees and shrubs the applicant would be required to plant under Section 16.34.070(C)(4);

(2) A site plan showing where the specific mitigation activities will occur and the numbers and sizes of trees and shrubs that the applicant proposes to plant; and

(3) A discussion of site preparation including soil additives and removal of invasive and noxious vegetation, plant diversity, plant spacing, planting season, and immediate post-planting care including mulching, irrigation, wildlife protection, and weed control.

(B) Documentation of coordination with appropriate local, regional, special district, state, and federal regulatory agencies.

(C) A list of all parties responsible for implementing and monitoring the mitigation plan and, if mitigation will occur off-site, the names of the owners of property where mitigation plantings will occur.

(D) The applicant's mitigation site monitoring and reporting plan. Applicant must provide a minimum of three years of monitoring and maintenance (with removal of invasive species). All such maintenance must be documented and reported annually.

(E) If the proposed mitigation will not be conducted on-site, the applicant shall submit a map and accompanying narrative that details the following:

(1) The number of trees and shrubs that can be planted on-site;

(2) The on-site location where those trees and shrubs can be planted;

(3) An explanation of why it is not practicable for the remainder of the mitigation to occur on-site; and

(4) The proposed location for off-site mitigation and documentation that the applicant can carry out and ensure the success of the mitigation, including documentation that the applicant possesses legal authority to conduct and maintain the mitigation, such as having a sufficient ownership interest in the mitigation site, and, if the mitigation is not within a HCA, documentation that the mitigation site will be protected after the monitoring period expires, such as through the use of a restrictive covenant. In all cases, mitigation must be provided within the City of Happy Valley City limits.

(F) If the mitigation area is off-site and not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, the applicant shall submit an explanation of why it is not practicable to conduct the mitigation within the same subwatershed and of why and how, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed.

(G) An implementation schedule, including timeline for construction, mitigation, mitigation maintenance, monitoring, reporting and a contingency plan. If the applicant is proposing any in-stream work in fish-bearing streams as part of the mitigation project, then the applicant shall submit documentation that such work will be done in accordance with the Oregon Department of Fish and Wildlife in-stream work timing schedule.

iii. In addition, where a Water Quality Resource is proposed to be impacted, the mitigation plan shall contain the following additional information:

(A) A description of adverse water quality impacts that will be caused as a result of development;

(B) An explanation of how development in the Water Quality Resource has been limited to the area necessary to allow for the proposed use and how the Water Quality Resource area will be restored to an equal or better condition; and

(C) A map showing where the specific mitigation activities will occur.

c. The Impact Evaluation and Alternatives Analysis required by subsection (D)(1)(e) and the Mitigation Plan required by subsection (D)(1)(f) shall be prepared and signed by either (i) a knowledgeable and qualified natural resource professional, such as a wildlife biologist, botanist, or hydrologist, or (ii) a civil or environmental engineer registered in Oregon to design public sanitary or storm systems, stormwater facilities, or other similar facilities. The application shall include a description of the qualifications and experience of all persons that contributed to the Impact Evaluation and Alternatives Analysis and to the Mitigation Plan, and for each person that contributed, a description of the elements of such reports to which the person contributed.

3. Approval Criteria.

a. All application requirements in subsection (D)(1) shall be met.

b. Avoid. An applicant shall first avoid the intrusion of development into Water Quality Resources and HCAs to the extent practicable. The development that is proposed must have less detrimental impact to Water Quality Resources and HCAs than other practicable alternatives, including significantly different practicable alternatives that propose less development within Water Quality Resources and HCAs. If there are both Water Quality Resource Areas and HCAs on a property and/or there is more than one type of HCA on a property, then the applicant shall first avoid the intrusion of development into the Water Quality Resource, then into the higher-valued HCA, to the extent practicable, and the development that is proposed must have less detrimental impact to the Water Quality Resource and higher-valued HCAs than other practicable alternatives. To avoid development in Water Quality Resources and HCAs, and to the

extent practicable, applicants shall use the approaches described in subsection (D)(1)(e)(iii).

c. Minimize. If the applicant demonstrates that there is no practicable alternative that will not avoid disturbance of Water Quality Resources and HCAs, then the development proposed by the applicant within the Water Quality Resources and HCAs shall minimize detrimental impacts to the extent practicable. If there are both Water Quality Resource Areas and HCAs on a property and/or there is more than one type of HCAs on a property, then the development within Water Quality Resources and higher-valued HCAs shall be considered more detrimental than development within lower-valued HCAs.

i. Development must minimize detrimental impacts to ecological functions and loss of habitat consistent with uses allowed by right under the base zone, to the extent practicable.

ii. To the extent practicable within Water Quality Resources and HCAs, the proposed development shall be designed, located, and constructed to:

(A) Minimize grading, removal of native vegetation, and disturbance and removal of native soils by using the approaches described in Section 16.34.070(C)(2), reducing building footprints, and using minimal excavation foundation systems (e.g., pier, post or piling foundation);

(B) Minimize adverse hydrological impacts on water resources such as by using the techniques described in Part (a) of Table 16.34.075-2, unless their use is prohibited by an applicable and required State or Federal permit issued to a unit of local government having jurisdiction in the area, such as a permit required under the Federal Clean Water Act, 33 U.S.C. Sections 1251 et seq., or the Federal Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq., and including conditions or plans required by such permit;

(C) Minimize impacts on wildlife corridors and fish passage such as by using the techniques described in Part (b) of Table 16.34.075-2; and

(D) Consider using the techniques described in Part (c) of Table 16.34.075-2 to further minimize the impacts of development in the Water Quality Resources and HCAs.

Table 16.34.075-2 Habitat-Friendly Development Practices*

Part (a): Design and Construction Practices to Minimize Hydrologic Impacts
1. Amend disturbed soils to original or higher level of porosity to regain infiltration and stormwater storage capacity.
2. Use pervious paving materials for residential driveways, parking lots, walkways, and within centers of cul-de-sacs.
3. Incorporate stormwater management in road rights-of-way.
4. Landscape with rain gardens to provide on-lot detention, filtering of rainwater, and groundwater recharge.
5. Use green roofs for runoff reduction, energy savings, improved air quality, and enhanced aesthetics.

6. Disconnect downspouts from roofs and direct the flow to vegetated infiltration/filtration areas such as rain gardens.

7. Retain rooftop runoff in a rain barrel for later on-lot use in lawn and garden watering.

8. Use multifunctional open drainage systems in lieu of more conventional curb-and-gutter systems.

9. Use bioretention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants.

10. Apply a treatment train approach to provide multiple opportunities for stormwater treatment and reduce the possibility of system failure.

11. Reduce sidewalk width and grade them such that they drain to the front yard of a residential lot or retention area.

12. Reduce impervious impacts of residential driveways by narrowing widths and moving access to the rear of the site.

13. Use shared driveways.

14. Reduce width of residential streets, depending on traffic and parking needs.

Part (a): Design and Construction Practices to Minimize Hydrologic Impacts
15. Reduce street length, primarily in residential areas, by encouraging clustering and using curvilinear designs.
16. Reduce cul-de-sac radii and use pervious vegetated islands in center to minimize impervious effects, and allow them to be utilized for truck maneuvering/loading to reduce need for wide loading areas on site.
17. Eliminate redundant non-ADA sidewalks within a site (i.e., sidewalk to all entryways and/or to truck loading areas may be unnecessary for industrial developments).
18. Minimize car spaces and stall dimensions, reduce parking ratios, and use shared parking facilities and structured parking.
19. Minimize the number of stream crossings and place crossing perpendicular to stream channel if possible.
20. Allow narrow street rights-of-way through stream corridors whenever possible to reduce adverse impacts of transportation corridors.
Part (b): Design and Construction Practices to Minimize Impacts on Wildlife Corridors and Fish Passage
1. Carefully integrate fencing into the landscape to guide animals toward animal crossings under, over, or around transportation corridors.
2. Use bridge crossings rather than culverts wherever possible.
3. If culverts are utilized, install slab, arch or box type culverts, preferably using bottomless designs that more closely mimic stream bottom habitat.
4. Design stream crossings for fish passage with shelves and other design features to facilitate terrestrial wildlife passage.

5. Extend vegetative cover through the wildlife crossing in the migratory route, along with sheltering areas.
Part (c): Miscellaneous Other Habitat-Friendly Design and Construction Practices
1. Use native plants throughout the development (not just in HCA).
2. Locate landscaping (required by other sections of the code) adjacent to HCA.
3. Reduce light spill-off into HCAs from development.
4. Preserve and maintain existing trees and tree canopy coverage, and plant trees, where appropriate, to maximize future tree canopy coverage.

* These development practices represent the state of scientific knowledge at the time of this Code's enactment; if more effective habitat-friendly practices become available, they should be used.

d. Mitigate. If the applicant demonstrates that there is no practicable alternative that will not avoid disturbance of a Water Quality Resource or HCA, then development must mitigate for adverse impacts to the Water Quality Resource and HCA. All proposed mitigation plans must meet the following standards.

i. The mitigation plan shall demonstrate that it compensates for detrimental impacts to ecological functions provided by HCAs, after taking into consideration the applicant's efforts to minimize such detrimental impacts through the use of the techniques described in Table 16.34.075-2 and through any additional or innovative techniques. A mitigation plan that requires the amount of planting that would be required under Section 16.34.070(C)(4) based on the amount of proposed disturbance area within the HCA, and that otherwise complies with all of the mitigation requirements in Section 16.34.070(C)(4), shall be considered to have satisfied the requirements of subsection (D)(2)(d).

ii. Mitigation shall occur on the site of the disturbance, to the extent practicable. Off-site mitigation shall be approved if the applicant has demonstrated that it is not practicable to complete the mitigation on-site and that the applicant has documented that it can carry out and ensure the success of the off-site mitigation, as described in subsection (B)(1)(b)(iv). In addition, if the off-site mitigation area is not within the same subwatershed (6th Field Hydrologic Unit Code) as the related disturbed HCA, the applicant shall demonstrate that it is not practicable to complete the mitigation within the same subwatershed and that, considering the purpose of the mitigation, the mitigation will provide more ecological functional value if implemented outside of the subwatershed. Mitigation shall not be allowed outside of the Metro jurisdictional boundary.

iii. All re-vegetation plantings shall be with native plants listed on the Happy Valley Plant List (Appendix A).

iv. All in-stream work in fish-bearing streams shall be done in accordance with the Oregon Department of Fish and Wildlife in-stream work-timing schedule.

v. A mitigation maintenance plan shall be included and shall be sufficient to ensure the success of the planting, and compliance with the plan shall be a condition of development approval.

e. Natural resource boundaries shall be located and staked by a qualified professional prior to any construction, demolition, grading or site clearing. Construction barrier fencing should be erected around the vegetated corridor prior to construction.

f. Protective measures and erosion control measures shall comply with the City's Erosion Control Ordinance No. 141. These measures shall remain in place throughout the development of the site.

g. No stockpiling of fill materials, parking, or storage of construction equipment shall be allowed within a significant natural resource or its buffer.

h. The types, sizes and intensities of lights must be placed so that they do not shine directly into the significant natural resource or its buffer.

i. The removal of native vegetation shall not be permitted from a resource area unless:

i. A permit has been issued by the City in accordance with the land development code; or

ii. Species to be removed are on the Happy Valley Plant List's Nuisance Plant List or Prohibited Plant List (Appendix A).

j. Plantings within the natural resource shall only be with species on the Happy Valley Plant List's native groundcovers, shrub or tree lists (Appendix A).

16.34.080 Compensatory mitigation ratios.

A. The following standards apply to required mitigation:

1. Mitigation shall occur at a two-to-one ratio of mitigation area to proposed Natural Resource Overlay Zone (NROZ) disturbance area. Mitigation of the removal or encroachment of a wetland or stream shall not be part of this chapter and will be reviewed by the Division of State Lands or the Army Corp of Engineers during a separate review process;

2. Mitigation shall occur on the site where the disturbance occurs, except as follows:

a. The mitigation is required for disturbance associated with a right-of-way or utility in the right-of-way,

b. The mitigation shall occur first on the same stream tributary, secondly in the Mt. Scott Creek, Sieben Creek, Rock Creek, Richardson Creek or a tributary thereof, or thirdly as close to the impact area as possible within the NROZ, and

c. An easement that allows access to the mitigation site for monitoring and maintenance shall be provided as part of the mitigation plan;

3. Mitigation shall occur within the NROZ area of a site unless it is demonstrated that this is not feasible because of a lack of available and appropriate area. In such cases, the proposed mitigation area shall be contiguous to the existing NROZ area so the NROZ boundary can be easily extended in the future to include the new resource site;

4. Invasive and nuisance vegetation shall be removed within the mitigation area;

5. Required Mitigation Planting. An applicant shall meet Mitigation Planting Option 1 or 2 below, whichever option results in more tree plantings, except that where the disturbance area is one acre or more, Mitigation Option 2 shall be required. All trees, shrubs and ground cover shall be selected from the Happy Valley Native Plant List;

6. Applications on sites where no trees are present or which are predominantly covered with invasive species shall be required to mitigate the site, remove the invasive species and plant trees and native plants pursuant to Option 2.

B. Mitigation Planting Option 1.

1. Planting Quantity. This option requires mitigation planting based on the number and size of trees that are removed from the site pursuant to Table 16.34.080-1. Conifers shall be replaced with conifers. Bare ground shall be planted or seeded with native grasses and ground cover species.

Table 16.34.080-1 (Required Planting Option 1)

Size of Tree to be Removed (DBH)	Number of Trees and Shrubs to be Replanted
6 to 12″	2 trees and 3 shrubs
13 to 18″	3 trees and 6 shrubs
19 to 24″	5 trees and 12 shrubs
25 to 30″	7 trees and 18 shrubs
Over 30″	10 trees and 30 shrubs

2. Plant Size. Replacement trees shall be at least one-half inch in caliper on average, measured at six inches above the ground level for field grown trees or above the soil line for container grown trees. Oak, madrone, ash or alder may be one-gallon size. Conifers shall be a minimum of six feet in height. Shrubs must be in at least one-gallon container size or the equivalent in ball and burlap and shall be at least twelve (12) inches in height at the time of planting. All other species shall be a minimum of four-inch pots.

3. Plant Spacing. Except for the outer edges of mitigation areas, trees and shrubs shall be planted in a non-linear fashion. Plant spacing for new species shall be measured from the driplines of existing trees when present. Trees shall be planted on average between eight and twelve (12) feet on center, and shrubs shall be planted on average between four and five feet on center, or clustered in single species groups of no more than four plants, with each cluster planted on average between eight and ten (10) feet on center.

4. Mulching and Irrigation. Mulch new plantings a minimum of three inches in depth and eighteen (18) inches in diameters. Water new plantings one inch per week from June 30th to September 15th, for the three years following planting.

5. Plant Diversity. Shrubs shall consist of at least two different species. If ten trees or more are planted, no more than one-half of the trees may be of the same genus.

C. Mitigation Planting Option 2.

1. Planting Quantity. In this option, the mitigation requirement is calculated based on the size of the disturbance area within the NROZ. Native trees and shrubs are required to be

planted at a rate of five trees and twenty-five (25) shrubs per every five hundred (500) square feet of disturbance area (calculated by dividing the number of square feet of disturbance area by five hundred (500), and then multiplying that result times five trees and twenty-five (25) shrubs, and rounding all fractions to the nearest whole number of trees and shrubs; for example, if there will be three hundred thirty (330) square feet of disturbance area, then three hundred thirty (330) divided by five hundred (500) equals 0.66, and 0.66 times five equals 3.3, so three trees must be planted, and 0.66 times twenty-five (25) equals 16.5, so seventeen (17) shrubs must be planted). Bare ground must be planted or seeded with native grasses or herbs. Non-native sterile wheat grass may also be planted or seeded, in equal or lesser proportion to the native grasses or herbs.

2. Plant Size. Plantings may vary in size dependent on whether they are live cuttings, bare root stock or container stock, however, no initial plantings may be shorter than twelve (12) inches in height.

3. Plant Spacing. Trees shall be planted at average intervals of seven feet on center. Shrubs may be planted in single-species groups of no more than four plants, with clusters planted on average between eight and ten (10) feet on center.

4. Mulching and Irrigation shall be applied in the amounts necessary to ensure eighty (80) percent survival at the end of the required five-year monitoring period.

5. Plant Diversity. Shrubs shall consist of at least three different species. If twenty (20) trees or more are planted, no more than one-third of the trees may be of the same genus.

D. Alternative Planting Plan. An alternative planting plan using native plants may be approved in order to create a new wetland area, if it is part of a wetlands mitigation plan that has been approved by the DSL or the U.S. Army Corps of Engineers (USACE) in conjunction with a wetland joint removal/fill permit application.

E. Monitoring and Maintenance. The mitigation plan shall provide for a five-year monitoring and maintenance plan with annual reports in a form approved by the director of community development. Monitoring of the mitigation site is the on-going responsibility of the property owner, assign, or designee, who shall submit said annual report to the city's planning division, documenting plant survival rates of shrubs and trees on the mitigation site. Photographs shall accompany the report that indicate the progress of the mitigation. A minimum of eighty (80) percent survival of trees and shrubs of those species planted is required at the end of the five-year maintenance and monitoring period. Any invasive species shall be removed and plants that die shall be replaced in kind. Bare spots and areas of invasive vegetation larger than ten (10) square feet that remain at the end the five-year monitoring period shall be replanted or reseeded with native grasses and ground cover species.

F. Covenant or Conservation Easement. Applicant shall record a restrictive covenant or conservation easement, in a form provided by the city, requiring the owners and assigns of properties subject to this section to comply with the applicable mitigation requirements of this section. Said covenant shall run with the land and permit the city to complete mitigation work in the event of default by the responsible party. Costs borne by the city for such mitigation shall be borne by the owner.

G. Financial Guarantee. A financial guarantee for establishment of the mitigation area, in a form approved by the city, shall be submitted before development within the NROD disturbance area commences. The city will release the guarantee at the end of the five-year monitoring period, or

before, upon its determination that the mitigation plan has been satisfactorily implemented pursuant to this section. (Ord. 550 § 1, 2020; Ord. 398 § 1, 2010; Ord. 389 § 1(Exh. A), 2009)

16.34.090 Environmental review permit.

Development proposals that are subject to the provisions of Chapter 16.34 will require an environmental review permit application. Environmental review permits will be reviewed through a Type II procedure, pursuant to Section 16.61.030.

Chapter 16.35 FLOOD MANAGEMENT OVERLAY ZONE

16.35.010 Purpose.

A. The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to human life and property, and maintain the functions and values of floodplains, such as allowing for the storage and conveyance of stream flows through existing and natural flood conveyance systems.

B. This section establishes a flood management area overlay zone, which is delineated on the flood management area map incorporated by reference as a part of this chapter.

16.35.020 Applicability.

A. The flood management areas mapped include land contained within the one hundred (100) year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency flood insurance maps.

B. The standards that apply to the flood management areas apply in addition to local, state or Federal restrictions governing floodplains or flood hazard areas, including the standards in Chapter 15.24, Flood Damage Prevention.

16.35.030 Permitted uses.

A. Uses Permitted Outright.

1. Excavation and fill required to plant any new trees or vegetation;

2. Restoration or enhancement of floodplains, riparian areas, wetland, upland and streams that meet Federal and State standards.

B. Conditional Uses. All uses allowed in the base zone or existing flood hazard overlay zone are allowed in the flood management overlay zone subject to compliance with the development standards of this section.

C. Prohibited Uses.

1. Any use prohibited in the base zone or existing flood hazard overlay zone (Chapter 15.24, Flood Damage Prevention);

2. Uncontained areas of hazardous materials as defined by the department of environmental quality.

16.35.040 Development standards.

A. All development, excavation and fill in the floodplain shall conform to the following balanced cut and fill standards.

1. No net fill in any floodplain is allowed. All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removal.

2. Excavation areas shall not exceed fill areas by more than fifty (50) percent of the square footage.

3. Any excavation below bankful stage shall not count toward compensating for fill.

4. Excavation to balance a fill shall be located on the same parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the excavation shall be located in the same drainage basin and as close as possible to the fill site, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis.

5. For excavated areas identified by the City to remain dry in the summer, such as parks or mowed areas, the lowest elevation of the excavated area shall be at least six inches above the winter “low water” elevation, and sloped at a minimum of two percent towards the protected water feature. One percent slopes will be allowed in smaller areas.

6. For excavated areas identified by the City to remain wet in the summer, such as a constructed wetland, the grade shall be designed not to drain into the protected water feature.

7. Minimum finished floor elevations and the bottom floor of septic tanks must be at least one foot above the design flood height or highest flood of record, whichever is higher, for new habitable structures in the flood area.

8. Short-term parking in the floodplain may be located at an elevation of no more than one foot below the ten (10) year floodplain so long as the parking facilities do not occur in a water quality resource area. Long-term parking in the floodplain may be located at an elevation of no more than one foot below the one hundred (100) year floodplain so long as the parking facilities do not occur in a water quality resource area.

9. Temporary fills permitted during construction shall be removed.

10. New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.

11. Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.

B. Land divisions and other proposed new development, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a land division or other development proposal is in a flood-prone area, any such proposals shall be reviewed to assure that all proposals shall:

1. Be consistent with the need to minimize flood damage;

2. Have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and

3. Have adequate drainage provided to reduce exposure to flood damage.

C. Where 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 fifty (50) lots or five acres (whichever is less).

16.35.050 Variances.

A. The purpose of this section is to ensure that compliance with Chapter 16.35 does not cause unreasonable hardship. To avoid such instances, the requirements of Chapter 16.35 may be varied. Variances are also allowed when strict application of Chapter 16.35 would deprive an owner of all economically viable use of land, pursuant to Section 16.71.040, Class B variance.

B. This section applies in addition to the standards governing proposals to vary the requirements of the base zone.

C. The Community Development Director shall provide the following notice of variance applications:

1. Upon receiving an application to vary the requirements of Chapter 16.35, the Planning Official shall provide notice of the request to all property owners within three hundred (300) feet; to Metro; to any affected neighborhood or community planning organization recognized by the City and whose boundaries include the property; and to any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the property.

2. Within seven days of a decision on the variance, the Planning Official shall provide notice of the decision to all property owners within three hundred (300) feet; to Metro; to any affected neighborhood or community planning organization recognized by the City and whose boundaries include the property; to any watershed council recognized by the Oregon Watershed Enhancement Board and whose boundaries include the property; and to any other person required to receive notice of such a decision under State law.

D. Hardship Variance. Variances to avoid unreasonable hardship caused by the strict application of Chapter 16.35 are permitted subject to the criteria set forth in this section. To vary from the requirements of Chapter 16.35, the applicant must demonstrate the following:

1. The variance is the minimum necessary to allow the proposed use or activity;

2. The variance does not increase danger to life and property due to flooding or erosion;

3. The impact of the increase in flood hazard, which will result from the variance, will not prevent the City from meeting the requirements of Chapter 16.35. In support of this criteria the applicant shall have a qualified professional engineer document the expected height, velocity and duration of floodwaters, and estimate the rate of increase in sediment transport of the floodwaters expected both downstream and upstream as a result of the variance;

4. The variance will not increase the cost of providing and maintaining public services during and after flood conditions so as to unduly burden public agencies and taxpayers;

5. Unless the proposed variance is from mitigation under Section 16.34.075(D)(1) (mitigation plan), the proposed use will comply with those standards, as applicable; and

6. The proposed use complies with the standards of the base zone.

E. Variance Conditions. The Planning Official may impose such conditions as are deemed necessary to limit any adverse impacts that may result from granting relief.

16.35.060 Map administration.

A. The purpose of this section is to provide a process for amending the flood management areas map to correct the location flood management area overlay zones.

B. Map Corrections.

1. Within ninety (90) days of receiving information establishing a possible error in the existence or location of a protected flood management area overlay zone, the City shall provide notice to interested parties of a public hearing at which the City will review the information;

2. The City shall amend the flood management areas map if the information demonstrates:

a. That the water feature no longer exists because the area has been legally filled, culverted or developed prior to the adoption of this chapter, or

b. The boundaries of the flood management area overlay zone have changed since adoption of the flood management areas map.

16.35.070 Warning and disclaimer of liability.

The degree of flood protection required by Chapter 16.35 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 manmade or natural causes. Chapter 16.35 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 damage. Chapter 16.35 shall not create liability on the part of the City or County, any officer or employee of the City or County, or the Federal Insurance Administration, for any damages that result from reliance on flood management sections of this chapter or any administrative decision lawfully made hereunder.

16.35.080 Environmental review permit.

Development proposals that are subject to the provisions of Chapter 16.35 will require an environmental review permit application. Environmental Review Permits will be reviewed through a Type II procedure, pursuant to Section 16.61.030.

Happy Valley Municipal Code: Land Development Code Effective December 31, 2022 – January 4, 2023

ARTICLE 16.4 COMMUNITY DESIGN STANDARDS

Chapter 16.40 DESIGN STANDARDS ADMINISTRATION

16.40.010 Purpose.

The purpose of this chapter is to establish general site development standards in regard to landscaping, off-street parking and loading, pedestrian access and circulation, and grading requirements.

16.40.020 Applicability.

Each chapter within the Community Design Standards contains an applicability statement for those specific standards.

Chapter 16.41 ACCESS AND CIRCULATION

16.41.010 Purpose.

The purpose of this section is to ensure that developments provide safe and efficient access and circulation for pedestrians and vehicles.

16.41.020 Applicability.

This section applies to all streets within the City and to all properties that abut these streets. The standards apply when lots are created, consolidated, or modified through a land division, lot line adjustment, lot consolidation, or street vacation; and when properties are subject to site design review.

16.41.030 Vehicular access and circulation.

A. Access to Arterial and Collector Streets.

1. Location and design of all accesses to and/or from arterials and collectors (as designated in the transportation system plan) are subject to review and approval by the City Engineer. Where practical, access from a lower functional order street shall be required.

2. Accesses to arterials or collectors shall be in accordance with the City's Transportation System Plan. Exceptions may be granted by the City Engineer. Evaluations of exceptions shall consider posted speed of the street on which access is proposed, constraints due to lot patterns, and effects on safety and capacity of the adjacent public street, bicycle and pedestrian facilities.

3. No development site that abuts an arterial or collector street shall be allowed more than one access point to that street (as designated in the transportation system plan) except as approved by the City Engineer. Evaluations of exceptions shall consider posted speed of street on which access is proposed, constraints due to lot patterns, and effects on safety and capacity of the adjacent public street, bicycle and pedestrian facilities.

4. When developed property is to be expanded or altered in a manner that significantly affects on-site parking or circulation, both existing and proposed accesses shall be reviewed under the standards in subsections (B)(1) and (B)(2) of this section. As a part of an expansion or alteration approval, the City may require relocation and/or reconstruction of existing accesses not meeting those standards.

5. When a partition, subdivision or a planned unit development abuts or contains an existing or proposed arterial street as defined within the Comprehensive Plan, the review body shall require reverse frontage lots, thereby precluding access to the parkway streets.

B. Driveways.

1. A driveway to an off-street parking area shall be improved from the public roadway to the parking area a minimum width of twenty (20) feet for a two-way drive or twelve (12) feet for a one-way drive but in either case not less than the full width of the standard approach for the first twenty (20) feet of the driveway.

2. Access to and from off-street parking areas shall not permit backing onto a public street, except for single-family dwellings.

3. A driveway for a single-family dwelling or an accessory structure serving as a garage or home occupation shall have a minimum width of twelve (12) feet. Driveway approaches and vehicular maneuvering areas must be constructed in accordance with applicable City standards and the entire drive must be paved with asphalt or concrete or an approved permeable or semi-permeable surface.

4. A driveway for a two-family dwelling shall have a minimum width of twenty (20) feet. A driveway approach must be constructed in accordance with applicable City standards and the entire driveway must be paved with asphalt or concrete or an approved permeable or semi-permeable surface.

5. Driveways, aisles, turnaround areas and ramps shall have a minimum vertical clearance of twelve (12) feet for their entire length and width but such clearance may be reduced in parking structures.

6. No driveway shall traverse a slope fifteen (15) percent or greater at any point along the driveway length.

7. The location and design of the driveway within the lot frontage shall provide for unobstructed sight pursuant to the vision clearance requirements. Requests for exceptions to these requirements will be evaluated by the public works director considering the physical limitations of the lot and safety impacts to vehicular, bicycle, and pedestrian traffic.

8. The number of driveway and private street intersections with public streets should be minimized by the use of shared driveways for adjoining lots where feasible. When necessary for traffic safety and access management purposes, or to access flag lots, the City Engineer may require joint access and/or shared driveways.

9. A driveway must line up with surrounding streets and meet the connectivity standards for full street connections in Section 16.50.030(B)(9)(a) if it meets one or more of the following:

a. Intersects with a public street that is controlled, or is to be controlled in the planning period, by a traffic signal;

b. Intersects with an existing or planned arterial or collector street; or

c. Would be an extension of an existing or planned local street, or of another major driveway.

16.41.040 Pedestrian access and circulation.

To ensure safe, direct and convenient pedestrian circulation, all developments, shall provide a continuous pedestrian and/or multi-use pathway system consistent with the City's TSP and Happy Valley Parks Master Plan. (Pathways only provide for pedestrian circulation; multi-use pathways accommodate pedestrians and bicycles.) The system of pathways shall be designed based on the standards in subsections A through E of this section.

A. Continuous Pathways. The pathway system shall extend throughout the development site, and connect to all future phases of development, adjacent trails, public parks and open space areas whenever possible. The developer may also be required to connect or stub pathways(s) to adjacent streets and private property.

B. Safe, Direct and Convenient Pathways. Pathways within all developments, except single-family detached housing (i.e., on individual lots), single-family attached housing, duplexes, triplexes, quadplexes, and cottage cluster housing, shall provide safe, reasonably direct and convenient connections between primary building entrances and all adjacent streets. For purposes of this Code section, the "primary entrance" of commercial, industrial, mixed use, public and institutional buildings is the main public entrance to the building. In the case where no public entrance exists, street connections shall be provided to the main employee entrance. For residential buildings, the "primary entrance" is the front door (i.e., facing the street). For multifamily buildings in which each unit does not have its own exterior entrance, the "primary entrance" may be a lobby, courtyard or breezeway that serves as a common entrance for more than one dwelling. A determination of whether or not a bicycle or pedestrian route is safe, direct, and convenient will be based on the following criteria:

1. Planned bicycle and pedestrian routes do not deviate unnecessarily from a straight line and will not involve a significant amount of out-of-direction travel for likely users.

2. Bicycle and pedestrian routes are reasonably free from hazards and provide safe access to destinations.

C. Connection within Development. For all developments subject to site design review, pathways shall connect to all building entrances to one another. In addition, pathways shall connect all parking areas, storage areas, recreational facilities and common areas (as applicable), and adjacent developments to the site, as applicable.

D. Connections to Transit.

1. New multi-family, retail, office and institutional buildings at or near major transit stops shall provide for convenient pedestrian access to transit through the use of the continuous pathway system outlined in subsections A and B above. "At a major transit stop" means a

parcel or ownership that is adjacent to or includes a major transit stop, generally including portions of such parcels or ownerships that are within two hundred (200) feet of a major transit stop. “Near a major transit stop” means a parcel or ownership that is within three hundred (300) feet of a major transit stop.

2. In addition to other requirements in this section, sites that are located at a major transit stop shall provide the following:

a. Either locate buildings within twenty (20) feet of the transit stop, a transit street or an intersection street, or provide a pedestrian plaza at the transit stop or a street intersection;

b. A reasonably direct pedestrian connection between the transit stop and building entrances on the site;

c. A transit passenger landing pad accessible to disabled persons;

d. Lighting at the transit stop;

e. An easement or dedication for a passenger shelter and an underground utility connection to a major transit stop if requested by the public transit provider; and

f. Intersection and mid-block traffic management improvements as needed and practicable to enable marked crossings at major transit stops.

E. Design and Construction. Pathways shall be designed and built in accordance with City public works standards.

Chapter 16.42 LANDSCAPING, STREET TREES, FENCES AND WALLS, RECREATION AREAS

16.42.010 Purpose.

The City of Happy Valley recognizes the aesthetic and economic value of landscaping and recreation areas and encourages its use to establish a pleasant community character, unify developments, buffer or screen unsightly features, soften and buffer large scale structures and parking lots; and to aid in energy conservation by providing shade from the sun and shelter from the wind. The community desires and intends all properties to be landscaped and maintained.

This chapter prescribes standards for landscaping, street trees, buffering and screening and shared outdoor recreation areas. While this chapter provides standards for frequently encountered development situations, detailed planting plans and irrigation system designs, when required, shall be reviewed by the City consistent with this chapter. (Ord. 468 § 1, 2014; Ord. 389 § 1(Exh. A), 2009)

16.42.020 Applicability.

This chapter shall apply to all land divisions and developments subject to site design review.

16.42.030 Landscaping standards.

A. General Requirements for Landscaping.

1. Where landscaping is required by this code, a detailed landscape design plan in accordance with Section 16.42.030(C) shall be submitted for review with development applications. No development may commence until the Planning Official or designee has determined the plans comply with the specific standards of this section. All required landscaping and related improvements shall be completed or financially guaranteed prior to the issuance of a certificate of occupancy.

2. Appropriate care and maintenance of landscaping on-site and landscaping in the adjacent public right-of-way is the joint and several right and responsibility of the property owner, tenant, and their agent, if any, unless otherwise provided by the lease agreement, or City ordinances specify otherwise for general public and safety reasons. If street trees or other plant materials do not survive or are removed, materials shall be replaced in kind within four months. Landscaping shall be maintained in a condition which presents a healthy, neat, and orderly appearance and shall be kept free of refuse and debris.

3. Significant plant and tree specimens should be preserved to the greatest extent practicable and integrated into the design of a development. Trees that are six inches or greater in diameter measured at a height of four and one-half feet above grade are considered significant pursuant to Section 16.42.050. Plants to be saved and methods of protection shall be indicated on the detailed landscape plan submitted for approval. Existing trees may be considered preserved if no cutting, filling, or compaction of the soil takes place between the trunk of the tree and the area five feet outside the tree's drip line. Trees to be retained shall be protected from damage during construction by a construction fence located five feet outside the drip line.

4. In no case shall shrubs, conifer trees, or other screening be permitted within vision clearance areas of street, alley, or driveway intersections, or where the City Engineer otherwise deems such plantings would endanger pedestrians and vehicles. All plant growth in landscaped areas shall be controlled by pruning, trimming, or otherwise so that it will not interfere with the maintenance or repair of any public utility.

5. Landscaped areas may include stormwater detention facilities, architectural features or artificial groundcovers such as sculptures, benches, masonry or stone walls, fences, rock groupings, bark dust, decorative hard paving and gravel areas interspersed with planted areas, and on-site natural features which are retained and improved. The exposed area developed with such features shall not exceed twenty-five (25) percent of the required landscaped area. This area may be developed into pedestrian amenities, including, but not limited to, sidewalk cafés, seating, water features and plazas, as approved by the Planning Official or designee or the Design Review Board. Artificial plants are prohibited in any required landscaped area.

6. Balconies required for entrances and exits should not be considered as landscaped areas except where such exits and entrances are for the sole use of the unit.

7. Roofed structures shall not be included as open space except for open unenclosed public patios, balconies, gazebos, or other similar structures or spaces.

8. Driveways and parking areas shall not be included as landscaped area.

9. All areas not occupied by paved roadways, parking areas, loading areas, driveways, walkways, patios, or buildings shall be landscaped.

10. Topsoil and Cover Planting.

a. During construction, sufficient topsoil and overburden shall be stored on the property in a stabilized condition at an isolated location to restore graded or backfilled areas. Such areas shall be covered with not less than eight inches of topsoil of at least equal quality to that removed, provided that if the average depth of the topsoil prior to excavation was less than eight inches, then the depth required need not exceed such lesser average.

b. Upon replacement of topsoil, the developer shall provide groundcover selected by the developer adequate to control erosion, prevent undue runoff and restore the surface in a manner suitable for its future development. Such groundcover will be identified by the developer on the site plan at the time of site plan review or preliminary approval of a partition, subdivision, PUD, or nonresidential development.

11. Final public infrastructure inspection and authorization to submit building permits may occur prior to the landscaping requirements having been met, provided that the City has received bonding or other assurances to cover the cost of required public improvements, in accordance with Section 16.50.080.

B. Area Required. The following minimum gross developable lot area of the greater proposed development shall be landscaped for the following uses:

1. Single-family detached, single-family attached dwellings, including duplexes, triplexes and fourplexes: twenty (20) percent. A minimum of 50 square feet of landscaping shall be located in front of the dwelling(s);

2. Multifamily dwellings containing five or more units: twenty (20) percent;

3. Nonresidential uses, e.g., commercial, industrial, institutional, or civic: fifteen (15) percent.

C. Landscaping Plan Requirements.

1. The applicant shall submit a preliminary landscape design plan which includes:

a. Location of underground irrigation system sprinkler heads where required by the City;

b. Location and height of fences, buffers and screening;

c. Location of terraces, decks, shelters, play areas, accessory structures and facilities, and common open areas;

d. Location, type, size and species of existing and proposed plant materials; and

e. A narrative which addresses soil conditions and erosion control measures that will be used;

f. Proposed location(s) and design of trash receptacles, clustered mailboxes per the provisions of the Americans with Disabilities Act and implementing federal regulations as well as the accessibility provisions of the Oregon Structural Specialty Code, newspaper boxes, and entry features or signs;

g. Any trees over six inches in diameter at four feet in height proposed to be removed;

h. The approval standards shall be the applicable standards contained in this section.

D. Parking Lot Landscaping.

1. Except for a residential development that has landscaped yards, parking facilities shall include landscaping to cover not less than fifteen (15) percent of the area devoted to parking facilities. The landscaping shall be uniformly distributed throughout the parking area and may consist of trees, shrubs, and groundcovers.

2. Screening of all parking areas containing four or more spaces and all parking areas in conjunction with an off-street loading facility shall be required. Where not otherwise specified by district requirement, screening along a public right-of-way and the parking area perimeter shall include a minimum ten (10) feet depth of buffer plantings adjacent to the right-of-way and along the perimeter of the parking area except when the perimeter of the parking area is within a commercial center or part of shared parking area, where a buffer is not required.

3. When parking in a commercial or industrial district adjoins a residential zoning district or use that is not comprised of a landscaped open space tract owned and maintained by the public or a Homeowner's Association providing for sight obscuring screening along the length of the subject site, a sight-obscuring screen that is at least eighty (80) percent opaque when viewed horizontally from between two and eight feet above the average ground level shall be required. The screening shall be composed of materials that are an adequate size so as to achieve the required degree of screening. Screening options may include landscaped earthen berms, solid wood fences or masonry walls with landscaping, or a combination of landscaping and construction materials that provide sight and sound abatement at the time of building occupancy.

4. Parking areas shall be divided into bays of not more than eight spaces in parking areas with twenty (20) or more spaces. Between, and at the end of each parking bay, there shall be planters that have a minimum width of five feet and a minimum length of seventeen (17) feet for a single depth bay and thirty-four (34) feet for a double bay. Each planter shall contain one major structural tree and groundcover. Truck parking and loading areas are exempt from this requirement.

5. In parking lots three acres and larger intended for use by the general public, the walkway shall be raised or separated from parking, parking aisles and travel lanes by a raised curb, concrete bumpers, bollards, landscaping or other physical barrier. If a raised walkway is used, curb ramps shall be provided in accordance with the Americans with Disabilities Act (ADA) Accessibility Guidelines.

E. Required Tree Plantings.

1. Planting of street trees is required for all public street frontages. Planting of street trees along private roadways is at the discretion of the developer, builder or property owner. Private street trees shall be located within a private street easement or combined private street tree/public utility easement. Trees shall be planted outside the right-of-way except where there is a designated planting strip or City-adopted street tree plan. (See Section 16.42.040(B) for standards.)

2. The City maintains a list of appropriate trees for street tree and parking lot planting situations in Table 16.42.040-1. Selection of species should be made from the City-approved list. Alternate selections may be approved by the Planning Official or designee following written request. The type of tree used shall determine frequency of trees in planting areas. Trees in parking areas shall be dispersed throughout the lot to provide a canopy for shade and

visual relief. Street trees shall be planted at thirty (30) feet on center except where planting a tree would conflict with existing trees, retaining walls, utilities and similar barriers.

3. Trees may not be planted:

a. Within five feet of a permanent hard surface paving or walkways, unless specific species, special planting techniques and specifications approved by the Planning Official or designee are used;

b. Within ten (10) feet of fire hydrants and utility poles;

c. Within five feet from a curb face when not in a planter strip or island;

d. Where the Planning Official or designee determines the trees may be a hazard to the public interest or general welfare.

4. Trees shall be pruned to provide a minimum clearance of eight feet above sidewalks and twelve (12) feet above street and roadway surfaces.

F. Irrigation. Landscaping shall be irrigated, either with a manual or automatic system, to sustain viable plant life, or shall submit a xeriscaping landscape plan based on drought tolerant plantings for review and approval of the Planning Official and/or Design Review Board. Any development, redevelopment, or street improvement or installation project that results in the requirement of more than one standard residential meter (⅝ x ¾, rated at twenty (20) gallons per minute) to be dedicated to the irrigation of publicly accessible green space and/or planter strips shall be required to install irrigation systems that utilize evapotranspiration (ET) based controllers if the green spaces are to be irrigated at any time during peak demand season. Subdivisions, planned unit developments (PUDs) and road projects requiring more than two standard residential meters (⅝ x ¾, rated at twenty (20) gpm) to be dedicated to the irrigation of publicly accessible green space and/or planter strips shall utilize central control systems with active connection to weather stations and flow monitoring sensors. The developer or project owner will be required to pay the cost for initial set-up and programming with the contractor selected by Sunrise Water Authority to manage the irrigation control system. Sunrise Water Authority will retain responsibility for engaging the contractor to operate any and all irrigation management systems installed under this program. Annual operational costs for the management of the system shall be collected from the homeowners within the subdivision or planned unit development as a surcharge on their water bill. Industry standard charges for operation and management of ET based irrigation control systems are based upon the number of valves in the irrigation system. This charge shall be equitably distributed amongst all home sites within the subdivision or PUD or, in the case of road projects, borne by the project owner, such as the County, City or State.

G. Types and Size of Plant Material.

1. At least seventy-five (75) percent of the required landscaping area (at maturity) shall be planted with a suitable combination of trees, shrubs, or evergreen groundcover.

2. Plant Materials. Use of native plant materials or plants acclimatized to the Pacific Northwest is encouraged where possible.

3. Deciduous trees shall be species having an average mature spread of crown greater than fifteen (15) feet and having trunks, which can be maintained in a clear condition with over five feet of clear wood (without branches). Trees having a mature spread of crown less than fifteen (15) feet may be substituted by grouping the same so as to create the equivalent of a fifteen (15) foot crown spread.

4. Deciduous trees shall be balled and burlapped, and a minimum of seven feet in overall height or one and one-half inches in caliper measured six inches above the ground, immediately after planting. Bare root trees will be acceptable to plant during their dormant season.

5. Coniferous trees shall be a minimum five feet in height above ground at time of planting.

6. Shrubs shall be a minimum of one gallon in size or two feet in height when measured immediately after planting.

7. Hedges, where required to screen and buffer off-street parking from adjoining properties shall be planted with an evergreen species maintained so as to form a continuous, solid visual screen within two years after planting.

8. Vines for screening purposes shall be a minimum of one gallon in size or thirty (30) inches in height immediately after planting and may be used in conjunction with fences, screens, or walls to meet physical barrier requirements as specified. English Ivy is not permitted.

9. Vegetated groundcovers shall be fully rooted and shall be well branched or leafed. If used in lieu of turf in whole or in part, groundcovers shall be planted in such a manner as to provide complete coverage in two years.

10. Turf areas shall be planted in species normally grown as permanent lawns in western Oregon. Either sod or seed are acceptable. Acceptable varieties include improved perennial ryes and fescues used within the local landscape industry. Artificial turf/lawn/grass may substitute for vegetative turf/lawn/grass as part of an approved landscape plan illustrating high-quality product that is generally natural in appearance as approved by the Planning Official or designee.

H. Revegetation in Unlandscaped or Natural Landscaped Areas.

1. Areas where natural vegetation has been removed or damaged through grading or construction activity in areas not affected by the landscaping requirements and that are not to be occupied by structures or other improvements shall be replanted as required by the City or by applicable conditions of approval.

2. Plant material shall be watered at intervals sufficient to assure survival and growth.

3. The use of native plant materials or plants acclimatized to the Pacific Northwest is encouraged to reduce irrigation and maintenance demands.

I. Landscaping Between Public Right-of-Way and Property Lines. Except for portions allowed for parking, loading, or traffic maneuvering, a required setback area abutting a public street and open area between the property line and the roadway in the public street shall be landscaped. That portion of the landscaping within the street right-of-way shall not count as part of the lot area percentage to be landscaped.

J. Buffer Planting—Parking, Loading and Maneuvering Areas.

1. Buffer plantings are used to reduce building scale, provide transition between contrasting architectural styles, and generally mitigate incompatible or undesirable views. They are used to soften rather than to block viewing. Where required, a mix of plant materials shall be used to achieve the desired buffering effect.

2. Any use which is required to provide off-street parking for five or more vehicles shall provide buffering of the parking areas on all sides which face directly upon and are within one hundred (100) feet of any property line of the subject site. Buffering shall include, in addition to required street trees for the project as a whole, fencing, sound walls (if deemed necessary by the review authority) or plantings at the immediate perimeter of the parking area which shall be of sufficient height and density, year around, to obscure sight lines to the parked vehicles and negate the impacts of headlights.

3. Boundary plantings shall be used to buffer these uses from adjacent properties and the public right-of-way. On-site plantings shall be used between parking bays, as well as between parking bays and vehicle maneuvering areas. A balance of low-lying groundcover and shrubs, and vertical shrubs and trees shall be used to buffer the view of these facilities.

4. Decorative walls and fences may be used in conjunction with plantings, but may not be used by themselves to comply with buffering requirements.

K. Assurance Required. Landscaped areas shall provide assurance to the City for one hundred twenty-five (125) percent of the estimated cost of the project through a bond, escrow account or certified letter of credit. Landscaped areas shall be completed as shown in the approved plans and inspected and approved by the City prior to final approval ("walk-through"), or shall be provided for by financial guarantee. The City will require a maintenance bond or other financial guarantee for the landscaped areas which will be held for two years after improvements are made to ensure plant survival. Plants that do not survive shall be replaced by the applicant during the first two years after the landscaped area is improved. The amount of the maintenance bond shall be twenty-five (25) percent of the construction cost of the landscaped areas as approved by the Planning Official or designee. The City may, at its option, require the maintenance bond to be extended should the need arise to finalize inspections or determine plant health.

16.42.040 Street trees and planter strips.

A. Applicability. All partitions, subdivisions, planned unit developments (PUDs), and any individual uses within any district, whether permitted by right or conditional approval, shall be required to provide street trees and, where applicable, planter strips on all public roadways within the project area, in accordance with the standards in subsection B below. Planting of street trees along private roadways is at the discretion of the developer, builder or property owner. Private street trees shall be located within a private street easement or combined private street tree/public utility easement.

B. Standards.

1. All street trees and planter strips shall be installed or financially secured by the developer pursuant to the definition of a "planter strip" found within Section 16.12.030 (Definitions). Private streets or development areas that do not utilize curbside planter strips shall install street trees beyond the public sidewalk, within a public utility and street tree easement.

2. Street Tree Installation Methodology. The developer and/or builder shall submit a planter strip and street tree plan as part of the construction plan set, detailing to the greatest extent practicable the placement of street trees in conformance with all spacing requirements in regard to street intersections, street lights, driveways, fire hydrants, etc. Based on this street

tree plan, the developer shall submit a street tree installation fee or liquid financial guarantee based on the methodology set forth in Section 16.50.080.

3. Planting/Removal. Any person desiring for any purpose to plant, remove, destroy, top or treat any tree in or upon any street right-of-way, shall first submit a tree cutting/planting application to the City describing the purpose and scope of work. All work done under such permit must be performed in strict accordance with the terms and provisions of this chapter. The Public Works Director shall base approval of such permit on the health, safety and welfare of both the affected tree(s) and community residents. If any permit required by this section is denied, the applicant may appeal in writing to the City Council within ten (10) days of denial. The council shall proceed and determine the appeal, calling upon the Public Works Director to defend his or her decision.

4. Modified Existing Streets. All proposed changes to existing public street right-of-way widths or any proposed existing street improvement shall, where feasible, include allowances for parking and median strips in accordance with the City's public facilities plan and its new street system final development standards.

5. Clearance Design.

a. Curb and Sidewalk. Parking strip street trees shall be planted midway between curb and sidewalk in parking strips.

b. Center Medians. Center median street trees shall be laterally centered in the medians and an offset placement pattern relative to parking strip street trees is required.

c. Utilities. All digging, including tree planting, must be preceded by underground location of utilities, water lines, sewer lines and transmission lines conducted by the planter.

d. Corners, Driveways, Fire Hydrants and Street Lights. No street trees shall be planted closer than thirty-five (35) feet from any street corner, measured back from the point of intersecting curbs or curb lines. No street tree shall be planted closer than five feet to any drive-way, ten (10) feet to any fire hydrant or utility pole. Vision clearance shall be provided pursuant to standards in Section 16.50.030(B) and consistent with Figure 16.42.040-1.

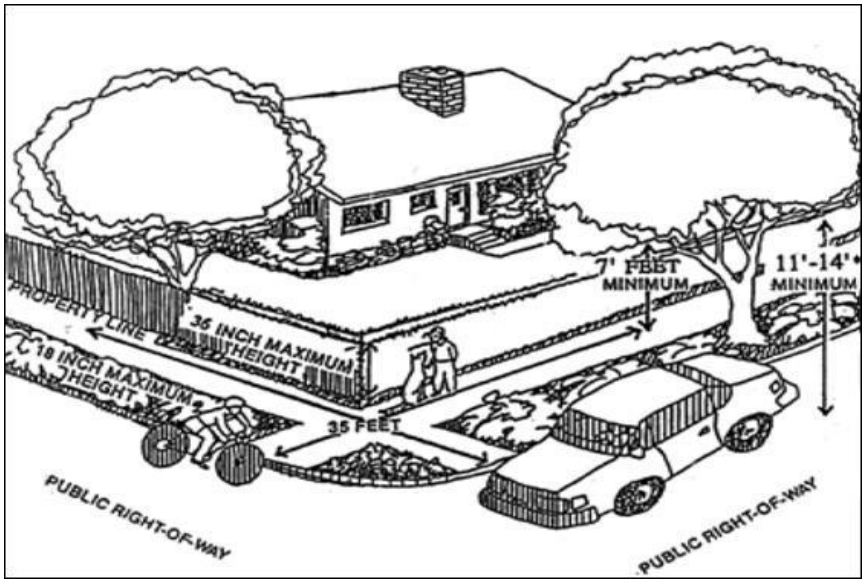
e. Street Tree Spacing. Street trees in parking strips shall be placed at a maximum of thirty (30) feet on-center and located in accordance with the requirements contained in this chapter. Street trees in center medians shall be placed at a maximum of fifteen (15) feet on center. Trees planted in the center medians shall be staggered with the trees planted in the parking strips. Special plantings shall be allowed with prior approval by the City Manager.

f. Visual Clearance. In order to keep visual zones clear and to protect traffic, pedestrians and bicyclists from running into low limbs, trees within or overhanging the public right-of-way and/or visual clearance zone must be trimmed to at least seven feet above the sidewalk area, eleven (11) feet above streets or alleys, and fourteen (14) feet above neighborhood collector level two and higher level roads (see Figure 16.42.040-1).

g. Median Trees. Center median street trees shall be planted and maintained in a manner that eliminates conflict between vehicle traffic and trees. Pruning of median

street trees shall reflect a limb standard sufficient to ensure a fourteen (14) foot clearance above streets.

Figure 16.42.040-1 Visual Clear Zones at Intersections



6. Consistency. In order to foster distinct and harmonious neighborhoods and encourage smooth transition between different sections of the City, consistency in street tree species shall be encouraged. However, this does not equate to the implementation of a street tree plan that is homogenous in species type for local residential streets. Staff shall review and approve street tree choice based on, but not limited to, the following criteria:

   a. Type and spacing of street trees in adjacent developments/neighborhoods;

   b. Maintenance of the same species type for the entire length of all collector level streets, including center median groundcover and trees. All new street trees placed on collector level streets must be the identical specie of those street trees already existing on that same street;

   c. Assist in the establishment of distinct neighborhoods with the use of street tree type.

7. Installation Standards.

   a. Street Tree List. The species of street trees to be planted shall be chosen from the approved list of street trees in Table 16.42.040-1, or an acceptable alternative as determined by the Planning Official or designee. Planter strip groundcover shall be chosen from the approved list of groundcover in the Happy Valley Plant List (Appendix A). Copies of the Happy Valley Plant List can be obtained from the City. The street tree list is Table 16.42.040-1 in this section.

   b. Method of Planting. Planting methods for all public trees shall adhere to the National Arborist Association Revised Standards (NAA) latest edition unless determined otherwise by the City.

   c. Installation Standards.

i. Planter Strip Street Trees. Minimum: one and three-quarters to two inches in diameter at a point four feet above existing grade at time of planting;

ii. Center Median Street Trees. Minimum: two to two and one-half inches in diameter at a point four feet above existing grade at time of planting.

d. Center Median Strips. Center median strips shall be landscaped with vegetative groundcover and/or covered with nonvegetative materials (i.e., interlocking paving stones). Automatic irrigation systems for all center median strips with street trees and/or vegetative groundcover shall be installed by the developer at the time the medians are constructed. Water lines shall be stubbed to center medians prior to the installation of the first street lift. Where possible, the water lines to the center medians shall be laid in series, continuing under the street where median breaks occur. Center median landscape and irrigation plans must be prepared by a landscape architect registered in the State of Oregon and shall be incorporated into the final landscape plan submitted to the City for approval.

e. Method of Support. Street trees shall be guyed or supported in an upright position according to accepted arboricultural standards (NAA) and fastened in a manner such that injury to the tree is avoided and public safety is ensured.

f. Permission to Plant. No person shall plant or set out any tree in a public place without first obtaining written permission from the Public Works Director. The Public Works Director shall consider the following criteria in determining whether permission should be granted: number of trees to be planted or set out; location, grade, and variety of each tree; method of planting; and any additional information the Public Works Director may reasonably need to make a fair judgment as to permission to plant.

g. Replacement. The City may require the replacement of a new tree by the abutting land owner, at the land owner's expense, after permission has been granted to remove an existing street tree.

h. Protection. No person may attach any ropes, wires, chains, or other devices to any street tree, or to the guard or stake intended for the protection of such trees, other than a device that will support and/or protect such trees. During the erection, repair, alteration or removal of any structure all street trees shall be adequately guarded and protected to prevent injury to such trees.

8. Removal. No person shall remove trees from public places without first obtaining written permission from the Public Works Director. Refer to the City's tree cutting removal regulations in regard to the removal of trees from private property.

9. Maintenance Standards.

a. All street trees within planting strips and medians must be pruned and maintained to National Arborist Association (NAA) standards for shade trees. A copy of the NAA standards is available at the City offices.

b. Care and maintenance of street trees is the continuing duty and routine obligation of the property owner(s) abutting dedicated rights-of-way and utility easements that contain street trees. It is the duty of the owner(s) to keep the sidewalks which abut their property clean from branches, leaves, flowers, fruit or other organic material fallen on such sidewalks.

c. No person shall prevent, delay or interfere with the City or any agent acting on the City's behalf, while such agents are engaged in the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or private trees as authorized by this chapter.

d. Trees on private grounds having limbs projecting into the street right-of-way shall be pruned by the owners of the property to satisfy the clearance requirements set forth in this chapter. Whenever the owner(s) of private grounds neglect to adequately prune such trees, they may be declared a nuisance. Upon declaring a tree a public nuisance, the Public Works Director may order the pruning and/or treatment of such tree(s). All costs associated with the maintenance of nuisance trees as established in this chapter shall be borne by the owner of that property upon which such trees are located.

e. Whenever the owner(s) of private grounds neglect any street tree in the public right-of-way that fronts their property as provided in this chapter, such tree(s) may be declared a nuisance. Upon declaring a street tree a public nuisance, the Public Works Director may order the treatment of such tree(s). All costs associated with the maintenance of nuisance street trees shall be borne by the owner of that property which such trees front.

f. A private utility maintaining its utility system may prune to NAA standards any tree located in the public right-of-way which interferes with any street light, pole, wire, cable, appliance or apparatus used in connection with, or as a part of, the utility system.

g. Topping of street trees and park trees is prohibited unless so ordered by the Public Works Director. Topping is defined as the severe cutting back of limbs larger than three inches in diameter to stubs within the tree's crown to such a degree that the normal canopy is removed and the tree is disfigured. Trees severely damaged by storms or where permanent obstructions make standard pruning practices impractical, may be exempted from this section at the discretion of the Public Works Director. The person(s) responsible for violations of this provision shall be subject to fines and penalties as established in Section 16.42.050(H) of this title.

h. In new partitions, subdivisions and planned unit developments, and any individual uses within any district, the developer shall be responsible for the care, maintenance and irrigation costs of all trees and landscaping within the public right-of-ways for a two-year period after the installation and acceptance of the street trees. A final inspection to determine street tree health and long term survivability shall be conducted at the end of the two-year maintenance period. The final street tree inspection shall be conducted by an arborist registered in the State of Oregon with all associated costs borne by the developer. The arborist's report shall be submitted to the City for approval, and subsequent replanting of any noted landscape materials shall occur, prior to the City's final acceptance of public improvements or release of the pertinent maintenance bond.

Table 16.42.040-1 Happy Valley Approved Street Tree List

Botanical Name	Common Name	Parking Strip Minimum Width (ft.)	Powerline Compatible	Mature Height (ft.)	Mature Spread (ft.)	Mature Shape	Poor Drainage Tolerant	Drought Tolerant	PNW Native	Maintenance Needs	Prohibited as a Street Tree?	Conspicuous Flowers	Conspicuous Fall Color	Comments
Acer buergeranum	Trident Maple	4	Y	25	25	R	Y	Y	N	M	N	N	Y	Attractive small tree. Bronze new leaves, turn dark green, then yellow, orange, and red in fall. 1″ samara. Wood can be brittle in snow and ice. Low branching may require pruning to train trees for

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														several years after transplanting. Usually multi-trunked but can be found as single trunk.
Acer campestre	Hedge Maple	4	M	35	35	R	N	Y	N	L	N	N	N	Very tough, tolerant tree, but does not offer much in terms of flower or fall color.

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Acer ginnala	Amur Maple	4	Y	20	20	R	Y	Y	N	L	N	Y	Y	Shrubby, but has lovely glossy leaves and bright scarlet fall color.
Acer griseum	Paper bark Maple	4	M	30	15	O	Y	Y	N	L	N	N	Y	Striking bark, leaves are incised, so they look pinnate. Glossy. Bright red fall color. Slow grower. Few samaras.

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Acer rubrum	Red Maple	6	N	70	65	O	Y	Y	N	L	N	N	Y	Red maples are prone to tight branch angles and can be hard on infrastructure due to surface rooting tendency. PLEASE do not plant under power lines. Lovely crimson red fall color, red

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														flowers in spring, Susceptible to Verticillium; sunscald can be a problem. Vigorous where room allows.
Acer rubrum 'var'	'October Glory' Red Maple	6	N	55	45	R	Y	Y	N	L	N	N	Y	Species info applies. This cultivar holds its leaves longer than others. Color may

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														turn brown suddenly after frost. Less cold hardy than other cultivars, better adapted to warmer zones. Wood tends to be brittle in snow/ice. May have delayed graft incompatibility.

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Acer saccharum 'var'	'Green Mountain' Sugar Maple	6	N	70	55	O	N	N	N	L	N	N	Y	Uniform and more vigorous growth than species with upright habit. Good summer -fall foliage color, resists leaf scorch. Sensitive to salt, compaction, heat, drought and susceptible to

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														Verticillium.
Acer truncatum x 'var.'	'Pacific Sunset' Maple	6	M	30	25	R	Y	Y	N	L	N	N	Y	Aka 'Warrenred'; rounded upright spreading, very glossy green foliage, finer branched, brighter yellow-orange to red fall color, turns color earlier than 'Norwegian

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														Sunset.' (This tree is a cross of A. truncatum x A. platanoides 'Warrensred')
Acer truncatum x 'var.'	'Norwegian Sunset' Maple	5	M	35	25	O	Y	Y	N	L	N	N	Y	Good uniform branching structure, with glossy dark green foliage, yellow-orange to red fall color, more heat

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														and drought tolerant than Norways, and even Pacific Sunset. Also called Keithsform.
Aesculus x carnea 'var.'	'Briotti' Red Horsechestnut	6	N	50	45	O	N	Y	N	L	N	Y	N	Nearly fruitless.
Carpinus betulus	European Hornbeam	6	N	60	40	O	Y	Y	N	L	N	N	N	Great, tolerant, tough urban tree. Not much fall color or

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														spring flowers
Carpinus betulus 'var.'	'Fastigiate' European Hornbeam	6	N	40	30	P	Y	Y	N	L	N	N	N	More narrow version of the European Hornbeam; tough, reliable, but not showy
Carpinus caroliania	American Hornbeam	6	M	35	35	O	Y	N	N	L	N	N	N	Native to the East Coast, but still a strong hardy tree with more open branching than the

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														European form.
Celtis occidentalis 'var.'	'Chicagoland' Hackberry	6	N	50	50	P	Y	Y	N	L	N	N	N	Exceptionally tough; easy on infrastructure; may have trouble with psillids; late to leaf out; recovers slowly from transplant.
Celtis occidentalis 'var.'	'Prairie Pride' Hackberry	6	N	50	50	R	Y	Y	N	L	N	N	N	Exceptionally tough; easy on infrastructure; may

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														have trouble with psillids; late to leaf out; recovers slowly from transplant.
Cercidiphyllum japonica	Katsuratree	6	N	45	60	R	Y	Y	N	L	N	N	Y	Heart shaped, frilly leaves. Needs good watering for establishment or will dry up quickly.

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Cercis canadensis	Eastern Redbud	4	M	30	35	R	Y	Y	N	L	N	Y	N	Magenta flowers before leaves in April/ May. Hear-shaped leaves, red when emerging turning to green; yellow in fall. Susceptible to Verticillium.
Cercis canadensis 'var'	'Forest Pansy' redbud	4	Y	25	25	R	N	N	N	M	N	Y	N	Purple leaves, gorgeous magenta

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														flowers before leaves in spring.
Crecis reniformis 'var'	Texas Redbud 'Oklahoma'	4	Y	18	20	R	Y	Y	N	M	N	Y	N	Far better foliage and excellent substitute for Eastern Redbud; white flowers; tolerates drought better than species.
Chionanthus virginicus	Fringe Tree	4	M	20	15	R	Y	Y	N	L	N	Y	N	Slow growing, bright white fragrant

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														flowers in Spring. Moderate drought tolerance. Purple fruit attracts birds; not a significant litter problem; persistent. Stress may catalyze problems with scale, mites, leaf

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														spots, powdery mildew, stem cankers. Best growth is with afternoon sun.
Cladrastis lutea	Yellowwood	4	N	50	55	R	N	Y	N	M	N	Y	N	Can be a vigorous grower. Drooping panniclles of white flowers in spring.
Clerodendrum trichotomum	Glorybower Tree	4	Y	20	20	R	N	N	N	M	N	Y	N	Lovely, tough, small tree with white

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														flowers in LATE summer, followed by interesting purple fruit with magenta sepals. Late to leaf out. Heart shaped leaves that smell like peanut butter when rubbed. Can sucker,

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														but is quite disease resistant.
Cornus kousa	Korean Dogwood	4	M	30	30	R	N	N	N	M	N	Y	Y	Great pagoda-like form; resists anthracnose; blooms later than C. florida; bracts are pointy and look like stars.
Crataegus laevigata 'var.'	'Crimson Cloud' Hawthorne	4	Y	20	18	O	Y	Y	N	H	Y	Y	N	Grows well in city conditions, almost thornle

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														ss. Resists leaf blight. Susceptible to aphids, lacebug, fireblight and rust. Growth is vigorous and upright. Staking may be need when trees are small and in exposed locations.

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Crataegus phaenopyrum	Washington Hawthorn	4	M	30	25	O	Y	Y	N	H	Y	Y	Y	Tolerates severe urban stresses, but it does have slender 1"-3" thorns, on dense horizontal branches. Heavy snow may cause breaking of branches. Pruning this tree can be a challen

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														ge. 'Princeton Sentry' cultivar is almost thornless, upright branching, and pest free. 'Manbeck Select' has improved tree form.
Fraxinus americana 'var.'	'Autumn Applause' White Ash	7	N	60	50	O	Y	N	N	L	N	N	Y	Improved growth habit, fall color, seedlessness. Deep

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														red fall color.
Fraxinus americana 'var.'	'Champaign County' White Ash	7	N	60	50	O	Y	N	N	L	N	N	Y	Improved in vigor, branching habit, foliage, fall color and seedlessness. Later fall color than other white ash; has shiny dark leaves, yellow-purple in fall.

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Fraxinus americana 'var.'	'Autumn Purple' White Ash	7	N	60	55	O	Y	N	N	L	N	N	Y	Improved vigor, form, and fall color - orange-maroon to dark burgundy in fall.
Fraxinus americana 'var.'	'Rosehill' White Ash	7	N	65	45	P	Y	N	N	L	N	N	Y	Uniform branch attachment, narrow form with open crown, good fall color, seedlessness. Bronze-red

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														fall color.
Fraxinus oxycarpa 'var.'	'Raywood' Ash	7	N	50	50	R	Y	Y	N	L	N	N	Y	Pinnately compound leaf with thin leaflets; some structural problems; brittle wood can break in storms, brilliant burgundy fall color, can heave sidewalks if not

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														given enough space.
Fraxinus oxycarpa 'var.'	'Golden Desert' Ash	4	Y	20	20	R	Y	Y	N	L	N	N	Y	Closely related to 'angustifolia' ashes - narrow, pinnately compound leaves, and may be listed differently in the trade. Deciduous tree, 30 ft (9 m) tall and somewhat less of a

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														spread, compact, rounded head. Foliage is reportedly yellowish in spring, green-yellow in summer, and yellow-gold in fall.
Fraxinus pennsylvanica 'var.'	'Urbanite' Green Ash	7	N	60	45	P	Y	Y	N	M	N	N	Y	Full crowned tree with pleasing growth habit; parent tree has

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														remained vigorous under city conditions and limited root space. Prune carefully to remove weak branch angles. Deep bronze-red in fall.
Fraxinus pennsylvanica 'var.'	'Summit' Green Ash	7	N	60	55	R	Y	Y	N	M	N	N	N	Improved trunk, branching, and vigor. Thicker bark makes

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														it resistant to mechanical injury. Abundant seeds. Golden yellow early fall color.
Fraxinus pennsylvanica 'var.'	'Marshall Seedless' Green Ash	7	N	55	45	O	Y	Y	N	M	N	N	N	Partially seedless; improved form, leaves, vigor. Glossy dark green leaves, yellow fall color.

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Ginkgo biloba 'var.'	'Princeton Sentry' Ginkgo	7	N	65	30	P	Y	Y	N	L	N	N	N	Male clone; narrowly conical. Transplants readily. Early pruning improves branching.
Ginkgo biloba 'var.'	'Autumn Gold' Ginkgo	7	N	50	30	P	Y	Y	N	L	N	N	N	Male clone; symmetrical conical form when young becoming broadly spreading with age.
Ginkgo	'Lakeview'	7	N	55	35	P	Y	Y	N	L	N	N	N	Male clone;

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biloba 'var.'	Ginkgo													this tree was developed for smaller sites (though it still gets pretty large)
Halesia caroliana	Carolina Silverbell	6	N	60	35	O	Y	N	N	L	N	Y	N	Lovely bell shaped flowers in spring, followed by interesting 4-pointed fruit.

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Maackia amurensis	Amur Maackia	5	M	35	30	V	N	Y	N	M	N	Y	N	Lovely tree that could be planted more often. Tends to spread widely and lower branches will droop into street or walkway unless pruned for structure early on. Usually found

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														in multi-stem forms. Intolerant of saturated soils. Nitrogen-fixing legume. White flowers borne upright on stalks, in summer; pinnately compound leaf. Slow growth rate. Disease

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														and pest free.
Magnolia stellata	Star Magnolia	4	Y	15	20	O	N	N	N	M	N	Y	N	Best as accent plant, not street tree. Gets Verticillium, buds can be damaged by frost. Transplant B&B; best in sheltered locales.

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Nyssa sylvatica	Black gum	6	N	70	45	O	Y	Y	N	L	N	N	Y	aka Black Tupelo; reputation for being difficult to establish - transplant B&B in spring; gorgeous fall color, glossy leaves; female trees may eventually produce small dark berries.

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Ostrya virginiana	American Hop Hornbeam	6	N	40	25	P	N	Y	N	L	N	N	N	Hornbeam has a lovely yellow fall color, and the small nutlets, which ripen in summer and fall, are used by birds and mammals during the winter. Bark is an attractive orange or grayish

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														brown peeling off in longitudinal strips. A rugged tree; tolerant of urban conditions and relatively care-free.
Parrotia persica	Persian Parrotia	4	N	40	30	R	N	Y	N	L	N	Y	Y	Flaky, mature bark is interesting. This tree is related to witchazel and the leaves

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														look similar. This hardy tree turns red, orange, yellow and purple all on the same tree in the fall.
Prunus cerasifera 'var.'	'Newport' Flowering Plum	4	Y	20	20	R	Y	Y	N	H	Y	Y	N	Probably the hardiest of purple-leaved plums. New growth is light-bronze; pale pink flowers

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														early spring, 1" diameter fruits. Usual Prunus pest and disease problems; tends to have useful life in cities of about 20 years.
Prunus sargentii	Sargent Cherry	4	M	30	30	R	Y	Y	N	L	N	Y	Y	Deep rose-colored blooms in early; bark is polished

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														mahogany. Hardiest of Japanese cherries. Tends to be short lived (only 20 years!). 'Columnaris' cultivar is recommended for narrow spaces. Typical cherry disease issues.
Prunus serrul	'Kwanzan' Flowe	6	M	35	25	R	Y	Y	N	M	N	Y	Y	aka 'Sekiyama';

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ata 'var.'	ring Cherry													branches upright into vase-shape; large double rosy pink pendulous midseason blossoms. See species info. CAUTION: Overplanted.
Prunus x yedoensis	Yoshino Flowering Cherry	6	N	50	50	R	Y	Y	N	M	N	Y	N	Horizontal open branches; Early single light pink to

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														nearly white. This kind planted in Wash, DC tidal basin. Needs good drainage, consistent water.
Pyrus callery ana 'var.'	'Aristocrat' Callery Pear	5	N	45	40	P	Y	Y	N	M	N	Y	Y	Early, single white flowers with glossy green leaves. Yellow-red fall color. VERY

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														susceptible to fireblight.
Pyrus calleryana 'var.'	'Chanticleer' Callery Pear	5	N	40	20	P	Y	Y	N	L	N	Y	Y	aka 'Cleveland Select'; Narrow tree; early, single white flowers with glossy green leaves. Orange-reddish purple fall color. Fireblight resistant.
Quercus	'Skymaste	6	N	50	25	P	N	Y	N	L	N	N	N	Uniform

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robur 'var.'	r' English Oak													shape and strong upright branching makes it look better than the species.
Styrax japonicus	Japanese Snowbell	4	M	30	30	R	Y	N	N	M	N	Y	N	Bell-shaped white flowers in May; delicate appearance.
Syringa reticulata	Japanese Tree Lilac	4	M	30	25	R	N	Y	N	L	N	Y	N	Blooms on new growth late in the lilac season. Smooth glossy red-

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														brown bark.
Syringa reticulata 'var'	Ivory Silk' Japanese Tree Lilac	4	M	30	20	O	N	Y	N	L	N	Y	N	Large clusters of creamy while lilac flowers in summer. Can be multi-stemmed or single stemmed. Persistent fruits, but not much of litter problem. Borers can cause

Botanical Name	Common Name	Parking Strip Minimum Width (ft.)	Powerline Compatible	Mature Height (ft.)	Mature Spread (ft.)	Mature Shape	Poor Drainage Tolerant	Drought Tolerant	PNW Native	Maintenance Needs	Prohibited as a Street Tree?	Conspicuous Flowers	Conspicuous Fall Color	Comments
														wilting problems with drought-stressed trees. Plant in full sun to avoid powdery mildew.
Tilla cordata 'var.'	'Glenleven' Littleleaf Linden	6	N	70	50	P	Y	M	N	M	N	Y	N	May be a cross with T. americana; improved form and branching, straight trunk, larger leaves

Botanical Name	Common Name	Parking Strip Minimum Width (ft.)	Powerline Compatible	Mature Height (ft.)	Mature Spread (ft.)	Mature Shape	Poor Drainage Tolerant	Drought Tolerant	PNW Native	Maintenance Needs	Prohibited as a Street Tree?	Conspicuous Flowers	Conspicuous Fall Color	Comments
														than species trees, flowers attract bees.
Tilla cordata 'var.'	'Greenspire' Littleleaf Linden	6	N	70	50	P	Y	M	N	M	N	Y	N	Rapid growth, improved form, smaller leaves, greater tolerance of urban conditions.
Ulmus 'Pioneer'	Pioneer Elm	7	N	50	50	O	Y	Y	N	L	N	N	N	Resists DED and elm yellows. Susceptible to elm leaf beetle.

Botanical Name	Common Name	Parking Strip Minimum Width (ft.)	Powerline Compatible	Mature Height (ft.)	Mature Spread (ft.)	Mature Shape	Poor Drainage Tolerant	Drought Tolerant	PNW Native	Maintenance Needs	Prohibited as a Street Tree?	Conspicuous Flowers	Conspicuous Fall Color	Comments
														Vigorous and highly tolerant of urban conditions.
Zelkova serrata ‘var.’	‘Halka’ Japanese Zelkova	6	N	50	30	O	Y	Y	N	M	N	N	Y	Good tolerance to urban and seacoast conditions, grows rapidly, resembles American elm more than other cultivars.

Botanical Name	Common Name	Parking Strip Minimum Width (ft.)	Powerline Compatible	Mature Height (ft.)	Mature Spread (ft.)	Mature Shape	Poor Drainage Tolerant	Drought Tolerant	PNW Native	Maintenance Needs	Prohibited as a Street Tree?	Conspicuous Flowers	Conspicuous Fall Color	Comments
Zelkova serrata 'var.'	'Green Vase' Japanese Zelkova	6	N	70	55	O	Y	Y	N	M	N	N	Y	Leaves turn bronze-red in fall. Very hardy tree. Branches-out higher than 'Village Green' for easy clearance.
Zelkova serrata 'var.'	'Village Green' Japanese Zelkova	6	N	60	60	R	Y	Y	N	M	N	N	Y	The crown form is broader than 'Green Vase'. Otherwise, similar to other

Botanical Name	Common Name	Parking Strip Minimum Width (ft.)	Powerline Compatible	Mature Height (ft.)	Mature Spread (ft.)	Mature Shape	Poor Drainage Tolerant	Drought Tolerant	PNW Native	Maintenance Needs	Prohibited as a Street Tree?	Conspicuous Flowers	Conspicuous Fall Color	Comments
														zelkova cultivars.

Legend

H – High, L – Low, M – Medium,

N – No, Y – Yes

O – Oval, P – Pyramidal, R – Round

(Ord. 539 § 1, 2018; Ord. 521 § 3, 2017; Ord. 389 § 1(Exh. A), 2009)

16.42.050 Tree cutting and preservation.

A. Purpose. The purpose of this section is to regulate the removal and preservation of trees and to protect trees as a natural resource of the City. It is the intent of this section to allow the prudent management of trees by individual property owners and developers where such management is in keeping with the purposes of this section.

B. Tree Removal Permits Applicability.

1. No person shall remove a tree that is six inches or more in diameter at four and one-half feet above ground level, without first obtaining a tree removal permit from the City. Permits shall be either a Type A permit or a Type B permit.

2. All tree removal permit fees shall be determined by resolution of the City Council.

3. The City may impose additional conditions in writing upon approval of a Type A or B tree removal application such as the time and nature of the removal, mitigation measures, erosion control or other reasonable conditions.

4. Tree removal fees (per tree) for trees determined to be located within the development envelope and associated tree impact zone around development not associated with subdivision

construction, planned unit development (PUD) construction, land partition construction or nonresidential construction, and for hazard trees (dangerous, diseased or dying) shall be waived. This waiver shall not include the filing fee.

5. Trees that exist within an existing lot of record, parcel or lot that are not part of preliminary subdivision or PUD may be removed for the creation or preservation of view corridors in the City. Applications to remove trees for the creation or preservation of view corridors shall be made upon forms prescribed by the City. Application type shall be dependent upon whether the applicant meets Type A or Type B permit criteria.

6. Tree removal from forested lands outside of commercially viable tree farms pursuant to the definition of "tree farm" preceding building construction or land development activities is prohibited. Tree farms and fruit or nut orchards that can demonstrate current commercial growing and harvesting operations shall be excluded from the provisions of this title, except where the removal of trees would create a significant increase in erosion as determined by the City Engineer, in which case a Type A or Type B permit shall be required.

C. Type A Permits.

1. Type A permits are required if all of the following criteria are met:

a. The applicant proposes to remove a maximum of three trees;

b. The property does not contain areas subject to Chapter 16.32 or Chapter 16.34 of the LDC; and

c. The property does not contain trees protected as a condition of approval of development pursuant to the LDC.

2. An application for a Type A tree removal permit shall be made upon forms prescribed by the City. Upon submittal of the required application a representative of the City may make a site visit prior to issuance of the permit to verify the information contained in the application. The application for a permit shall contain at a minimum:

a. The number, size, species and location of trees to be cut;

b. The time and method of cutting or removal;

c. A site plan or sketch depicting where each individual tree sought to be removed and each replacement tree, if any, is located;

d. A statement of the reason for cutting or removal;

e. Information concerning any proposed mitigation or landscaping measures to be taken to replace the tree(s) that is (are) to be removed;

f. Any erosion control measures that are to be implemented;

g. Any other relevant information that may be required by the City.

3. The following procedure shall be followed for Type A permits:

a. By submission of an application, the applicant shall be deemed to have authorized City representatives access to the property as may be needed to verify the information provided, to observe site conditions, and if a permit is granted, to verify that terms and conditions of the permit have been followed;

b. Upon application for a tree removal permit, the applicant shall clearly mark all trees requested for removal. Trees may be marked by colored tape, paper or any other clearly

identifiable marking. A representative of the City may then make a site visit to examine the trees requested for removal;

c. Within seven working days, the City shall notify an applicant if the application is deemed complete or not complete. Within ten (10) working days of the submission of a complete or completed Type A application, the City shall grant or deny the application.

4. Type A permits shall be evaluated based upon the following criteria:

a. It is the intent of this section to allow the prudent management of trees where such management is in keeping with the purposes of this section. Type A permits shall be granted upon a showing that tree removal is consistent with prudent management of trees, does not constitute a hazard to property or other necessary uses and does not negatively affect scenic, ecological, wildlife or similar values.

5. No property for which a Type A permit has been granted may be the subject of an application for a subsequent Type A permit for a period of twelve (12) months; provided, however, that this limitation may be waived by the City upon a showing of extreme hardship or exigent circumstances. All removal work commenced after the issuance of a tree removal permit, including, but not limited to, the removal and disposal of trees and debris permitted to be removed, shall be completed within ninety (90) days after the issuance of a tree removal permit. If tree removal work has not been completed within ninety (90) days, a new permit must be applied for.

6. An applicant for a Type A permit is responsible for obtaining all necessary State and Federal permits that may, in addition to City approvals. be required for a tree removal proposal. This includes abiding by State and Federal wildlife protection laws.

D. Type B Permits.

1. Type B permits are required for all circumstances where the criteria for a Type A permit are not met.

2. Type B permit applications shall contain all information required for a Type A application as provided in subsection C above. In addition, a Type B application shall include:

a. A tree survey prepared by a certified arborist, or other qualified landscape specialist as approved by the City, which describes size, species, health and condition of trees, and a map at a minimum scale of one inch equals one hundred (100) feet, that locates trees on the property. An arborist-prepared survey is not required for trees determined to be located within the development envelope and associated tree impact zone around the development area not associated with subdivision construction, planned unit development (PUD) construction, land partition construction or nonresidential construction, or if the Planning Official or designee can easily determine that the tree(s) in question are dead or dying. Drainageways, wetlands and surface water features shall also be identified on the map, unless waived by the Planning Official or designee;

b. A Tree Removal Plan. The plan shall identify each tree to be removed, describe protective fencing or markings around other trees or spaces to protect surrounding vegetation, and shall map proposed mitigation and erosion control measures. In addition, the plan shall designate grade changes, if any, proposed for the property. Individual trees that are to be removed during construction of a development shall be clearly identified on the tree removal plan, and must receive approval from the City. The plan shall illustrate

typical building envelopes as allowed by the required yard setbacks of the underlying development district or actual building envelopes at the discretion of the Planning Official or designee, particularly for multifamily, institutional, commercial or industrial developments; easements; or any other structural development constraints, and shall be based on the final grading plan. All trees proposed for removal must exist within grading areas for public rights-of-way and public infrastructure and utility areas, pursuant to Section 15.12.050 of the Happy Valley Municipal Code, including stormwater detention facilities pursuant to Section 16.50.060 of this Code; and, within the potential or actual building envelope. At the discretion of the Planning Official, tree removal from individual lots may also be proposed for removal or may be subject to a separate Type A or Type B permit as described in subsection B. Removal of trees outside of the areas approved as part of the original subdivision, PUD, partition or nonresidential tree removal plan shall be permitted only upon demonstration by a certified arborist that retention of trees within these areas represents a significant hazard to public health, safety and welfare (including potential damage to structures), or maintains a "view corridor." Review and approval of said arborist report shall be the responsibility of the Planning Official and City Engineer (or designees). The Planning Official or designee shall determine the tree mitigation ratio for all tree removal as detailed within subsection D of this section, with a maximum ratio of three trees to one removed.

i. Optimal Tree Protection Zone. The minimum distance from the center of a tree to the disturbance line shall be one foot of radius per inch of diameter at breast height (dbh), as measured four and one-half feet above the uphill side of the tree. Within these parameters, no more than thirty-three (33) percent of the area may be disturbed, though with healthy vigorous trees, up to fifty (50) percent of the area may be disturbed if supported by a certified arborist.

ii. A tree that is adjacent to a public right-of-way, public infrastructure and utility area, or potential or actual building footprint shall be retained only if protected within the optimal tree protection zone as defined above. Within the portion of the optimal tree protection zone that is being protected, a substantial fence or barrier shall exist. Within the fenced area, no soil disturbance, including stripping, is permitted. The natural grade is to be maintained, and no storage or dumping of materials, parking, etc. will be allowed within this protection area. The protection area fence or barrier shall remain in place through the construction of the structure. If excavation is proposed within the optimal tree protection zone (outside of the fenced off protection area), tree roots shall be pruned along excavation lines in the following manner:

(A) Excavation in the top twenty-four (24) inches of the soil in the critical root zone area should begin at the excavation line that is closest to the tree;

(B) Excavation is to occur with a hand shovel or a backhoe accompanied by a person with a shovel, pruning shears and a pruning saw;

(C) When shoveling, all roots one inch diameter or larger shall be pruned at the excavation line. When a backhoe is utilized, the operator starts the cut at the excavation line and if encountering roots or resistance, has the person with the shovel/shears/saw prune any roots that are larger than one inch diameter;

(D) Backhoes are to remain off the roots that are to be saved at all times; and

(E) All excavation work within the optimal tree protection zone (outside of the fenced protection area) shall be accomplished under the supervision of a certified arborist.

c. The review body shall determine the tree mitigation ratio for all tree removal as detailed within subsection D (except for partitions), with a maximum ratio of three trees to one removed. The Planning Official or designee shall determine the tree mitigation ratio for all tree removal in conjunction with a partition application, as detailed within subsection D, with a maximum ratio of three trees to one removed. Mitigation requirements shall not apply to trees removed that are identified by a certified arborist as dead or dying. An arborist report is not required if the Planning Official or designee can easily determine that the tree(s) in question are dead or dying. For Type B permits, the City may require that replacement trees have shade or erosion control potential or other characteristics comparable to or greater than the removed trees. Replacement trees shall be appropriately chosen for the site from an approved tree species list supplied by the City (see Appendix A), or as approved by a representative of the City, and shall be nursery Grade No. 1 or better. All replacement trees shall be at least one and one-quarter to one and one-half inches (bag and burlap) in diameter at breast height (dbh), as measured by caliper method for non-wetland, non-riparian corridor mitigation area, or non-slope re-vegetation sites. Within wetland, or riparian corridor mitigation sites, trees may be bare-root or greater. The preparation of lands for tree planting (e.g., removal and control of non-native species via a submitted management plan) may count for up to two-thirds of the required mitigation ratio. Within slope re-vegetation areas identified in a Native Vegetation Report prepared pursuant to Section 16.32.070(B)(2)(c), native trees and/or shrubs proposed consistent with the recommendations contained in said report may satisfy the required mitigation ratio. The City may review and modify tree replacement plans in order to provide optimum enhancement, preservation and protection of wooded areas. Where it is not feasible or desirable to relocate or replace trees on site, relocation or replacement may be made at an approved alternate public or private property in the City, or the property owner, builder or developer may make financial contribution to the City's "Tree Bank" equal to two hundred fifty dollars ($250.00) per tree, for the actual number of trees removed. If weather/irrigation conditions do not support planting of the mitigation trees, the builder or developer may secure the mitigated number of trees with a City-approved financial security (bonds, irrevocable letters of credit, bank set-asides, cash, etc.).

3. The following procedure shall be followed for Type B permits:

a. By submission of an application, the applicant shall be deemed to have authorized City representatives access to the property as may be needed to verify the information provided, to observe site conditions, and if a permit is granted, to verify that terms and conditions of the permit have been followed. All trees are to be clearly marked by the applicant for inspection by a City representative, prior to removal;

b. No property for which a Type B permit has been granted may be the subject of an application for a subsequent Type B permit for a period of twelve (12) months; provided, however, that this limitation may be waived by the City upon a showing of extreme

hardship or exigent circumstances. If tree removal work has not been completed within ninety (90) days, a new permit must be applied for. By submittal of a written request, the Planning Official may extend this period up to two additional ninety (90) day periods.

4. Type B permits shall be evaluated based upon the following criteria:

a. It is the intent of this section to allow the prudent management of trees where such management is in keeping with the purposes of this section. Type B permits shall be granted upon a showing that tree removal is either:

i. Necessary for the construction of a building, addition, structure or other approved site improvement, and there is no feasible or reasonable alternative option for such improvement which would not require removal of trees; or

ii. Necessary to remove a tree or trees that is/are diseased, damaged or in danger of falling, or which present(s) a hazard to people or adjacent property; or

iii. Necessary to provide safe and adequate access to utility service, utility drainage or right-of-way.

5. An applicant for a Type B permit is responsible for obtaining all necessary State and Federal permits that may, in addition to City approvals, be required for a tree removal proposal. This includes abiding by State and Federal wildlife protection laws.

E. Tree Removal from Open Spaces and Areas Adjacent to Drainageways.

1. At no time shall trees be removed from open spaces in a development, except under circumstances of danger, or threat to life and property as determined by a representative of the City.

2. Removal of trees will not be allowed within thirty (30) feet of the high water mark on either side of an identified drainageway. An identified drainageway shall be one that is identified on a United States Department of the Interior Geological Survey 7.5 Minute Quadrangle Map ("U.S. Geological Survey Map"). No tree may be removed from an identified drainageway unless such tree is determined by a City representative to be a dangerous tree. For any drainageway that is not identified upon the United States Geological Survey Map, the permittee shall have the burden of demonstrating that the tree removal sought will not cause or contribute to erosion. The City may require that added erosion control measures be implemented to prevent erosion. The City may require additional documentation substantiating a claim of dangerous circumstances alleged to necessitate the removal of trees from within an identified drainageway. This request for information may include, but is not limited to, a certified arborist report confirming the danger posed by the tree(s) in question.

F. Emergency Permits. If any tree presents an immediate danger of collapse, posing a clear and present hazard to persons and/or property, such tree may be removed without formal application for a Type A or B permit and the payment of a tree removal permit fee may be waived by the Planning Official or designee. For the purposes of this section, "immediate danger of collapse" means that the tree is already leaning, with the surrounding soil heaving, and there is a significant likelihood that the tree will topple or otherwise fall and cause damage before a tree removal permit can be obtained through the nonemergency process. The tree owner should photograph the tree showing emergency conditions and then may proceed with the removal of the tree to the extent necessary to avoid the immediate hazard. Within seven days after such removal, the tree owner shall apply for a retroactive emergency tree removal permit. If the evidence and information presented by the tree owner do not

meet the criteria for an emergency tree removal permit set forth in this section, the owner shall be subject to penalties as set forth in subsection H of this section. Tree removal permit application fees may also be waived by a representative of the City after the emergency condition has been adequately verified.

G. Mitigation of Tree Removal within Annexation Areas. Previously unincorporated areas within Clackamas County that have annexed within the City of Happy Valley and have caused significant removal (greater than fifty (50) percent) of the "forest canopy" that are not part of a "tree farm" pursuant to City definitions, shall be evaluated at the time of land division or site design review application for past tree removal. For discernible mass tree removal by remaining stumps, logging permit records, survey data or any other means authorized by the Planning Official that has occurred within a previous five-year period from submittal of a complete land use application, tree mitigation at a ratio of 2:1 shall be required. If on or off-site tree mitigation efforts are not accomplished pursuant to the auspices of this chapter, the applicant may make payment to the City's Tree Bank in lieu of tree planting mitigation.

H. Topping, Thinning and Pruning of Trees.

1. Trees severely damaged by storms or other uncontrollable natural causes, trees under utility wires or other obstructions making normal pruning practices impractical, trees that are being made into "habitat trees" that are outside of a fall area that could damage persons or property and trees that have been continually topped and trimmed over time to be maintained as a visual screen or to perform a similar function may be topped without a tree removal permit. All other tree topping is prohibited.

2. Trees shall not be limbed in any manner that removes more than thirty (30) percent of the existing limbs. This requirement is intended to allow for normal tree pruning, but eliminate the consecutive limbing of trees from top to bottom.

I. Violation and Penalties.

1. If a tree is removed without a tree removal permit, a violation may be determined by measuring the stump. A stump that is six inches or more in diameter at four and one-half feet above ground level, or as close to four and one-half feet above ground level as can be determined from remaining evidence, shall constitute prima facie evidence of a violation of this chapter.

2. Failure to follow any requirements or conditions of an approved tree cutting permit shall constitute a violation of this section.

3. Removal of the stump of a tree cut without a tree removal permit prior to the determination provided for in subsection (H)(1) of this section is a separate, additional violation of this section.

4. Each day's violation of any provision of this section constitutes a separate offense. Each individual tree removed in violation of the requirements of this section shall be a separate offense hereunder. Failure to comply with a condition of approval shall be a separate infraction each day the failure to comply continues. Each offense or infraction is subject to a civil penalty as prescribed in Section 16.13.020 of this title.

5. A person who removes a tree subject to this section without first obtaining a valid tree removal permit may obtain a retroactive permit by demonstrating that the removal complied with the applicable criteria for obtaining a tree removal permit. No person may obtain more

than one retroactive permit. In addition, the applicant may be subject to additional mitigation requirements as determined by the City.

6. Upon request of the City Manager or at the direction of the City Council, the City Attorney may institute appropriate legal action to enjoin the removal of trees in violation of this section, or to otherwise enforce the provisions of this section.

7. The City shall have authority to issue a stop-work order, withhold approval of a final plat and/or withhold issuance of a certificate of occupancy, permit or inspection until the provisions of this section have been fully complied with.

8. A builder, developer or tree service holding a City business license who is convicted of violating any provision of this section shall constitute grounds for revocation of the license, at the discretion of the City Council.

9. Any arborist, landscaper, contractor or tree service that has performed any tree removal in violation of this section or submitted a falsified report in connection with any tree removal or application for any tree removal covered by this section, shall not be considered a responsible bidder for any City contracts for a period of five years from the date of violation and/or penalty, whichever is later. The City Council may, at its discretion, waive this provision upon a showing of good cause.

10. Removal of a tree in violation of this section is declared to be a public nuisance, and may be abated by appropriate proceedings pursuant to City Charter Section 21.

11. The owner of the property upon which tree removal takes place is subject to enforcement and penalties pursuant to this section regardless of whether such owner personally conducts activities in violation of this section.

16.42.060 Fencing, walls and screening.

A. Walls and earthen berms along arterial or collector streets in residential districts have significant visual impacts, particularly with respect to traffic safety, site visibility and design aesthetics affecting major transportation corridors. Accordingly, prior to the issuance of a certificate of occupancy for a dwelling in a partition, subdivision, PUD or multifamily project, one of the following, or a combination thereof, is required to be installed along an arterial or collector street in a residential district. A recorded Contract, Covenants and Restrictions (CC&Rs) is required to assure ongoing maintenance.

1. Front façade or main entrance facing an arterial or collector street. Dwellings with the front façade or main entrance facing an arterial or collector street must construct up to a four-foot-tall barrier along the associated frontage consisting of:

a. Masonry or brick walls treated with anti-graffiti sealant, or

b. Decorative metal fence with masonry or brick columns, or

c. Solid earthen berms no greater than 25 percent in slope and both faces of the slope with groundcover, shrubs, and trees covering the berm.

2. Front façade or main entrance not facing an arterial or collector street. Dwellings with the front façade or main entrance not facing an arterial or collector street must construct up to a six-foot-tall barrier along the associated frontage consisting of:

a. Masonry or brick walls treated with anti-graffiti sealant, or

b. Decorative metal fence with masonry or brick columns, or

c. Solid earthen berms no greater than 25 percent in slope and both faces of the slope with groundcover, shrubs, and trees covering the berm.

3. Fences taller than two and one-half feet are not allowed in a clear vision area.

4. If a fence or wall is located in a utility easement, a minimum five-foot wide landscape strip shall exist (as measured back toward the structure from the property line adjacent to the street), subject to the landscape plan design and construction standards of this title.

5. Fences and walls shall be designed to prevent visual monotony through use of offsets, changes of materials and textures, or landscaping at least every 25 feet.

B. Screening

1. Height and Opacity. Where landscaping is used for required screening, it shall be at least six feet in height and at least eighty (80) percent opaque, as seen from a perpendicular line of sight, within two years following establishment of the primary use of the site. Landscaping that provides a buffer between a commercial or industrial structure that is within one hundred (100) feet of the property line of a residential zone or use shall provide solid sight and sound elements such as earthen berms, or masonry walls. Chain-link fencing with slats shall not qualify as a solid sight and sound element.

2. Chain Link Fencing. A chain link fence with slats shall qualify for screening only if a landscape buffer is also provided in compliance with this section.

3. The height of hedges, fences, walls, and berms shall be measured from the lowest adjoining finished grade, except where used to comply with screening requirements for parking, loading, storage, and similar areas. In these cases, height shall be measured from the finished grade of such improvements. Screening is not permitted within vision clearance areas.

4. Earthen berms up to six feet in height may be used to comply with screening requirements. Slope of berms may not exceed 2:1 and both faces of the slope shall be planted with groundcover, shrubs, and trees.

5. Fencing along open space tracts and conservation easements shall comprise of either split rail vinyl or stained cedar. Fencing along stormwater detention facilities shall be six-foot tall, black, vinyl-coated chain link or the most current requirement of Clackamas County Service District No. 1.

6. Screening of Service Facilities. Site-obscuring shrubbery or a berm, wall or fence shall be placed along a property line between residential and commercial and industrial zones and around unsightly areas including trash and recycling areas, gas meters, ground level air-conditioning units, disc antennas exceeding thirty-six (36) inches in diameter and equipment storage or an industrial or commercial use with outside storage of equipment or materials.

7. Outdoor Storage. All outdoor storage areas for commercial, industrial, public and semi-public uses are to be entirely screened by a sight obscuring fence, vegetative materials, or other alternative deemed appropriate by the Planning Official or designee. Exceptions to this requirement include: new or used cars, cycles and trucks sales (but not including car parts or damaged vehicles); new or used boat sales; recreational vehicle sales; new or used large equipment sales or rentals; manufactured home sales, florists and plants nurseries.

16.42.070 Lighting.

A. Purpose.

1. This section has been formulated to allow for the provision of street lighting for reasons of safety, health, peace and general welfare of all users and the citizens of and visitors to Happy Valley. It is the intent of this section that such lighting shall be provided by and through annexation of the City to Clackamas County Service District No. 5 or its successor.

2. The rules and regulations set forth in this section are jointly established by the City, Clackamas County Service District No. 5, or its successor, and Portland General Electric Co. (PGE) for all street lighting installation and service within the City.

B. Street Light Design Requirements.

1. Street lighting installations to be provided with light from dusk to dawn daily, activated by photo-electrical control.

2. Whenever any installation of street lighting is made, the City, in cooperation with the District and PGE, or its successor, shall approve the design for such lighting. Street lighting design shall conform to the following requirements:

a. Street lighting shall be provided only on public rights-of-way;

b. Illumination levels shall be guided by the recommendations of the most current edition of the "American National Standard—Standard Practice for Roadway Lighting";

c. The luminaire spacing may be modified to meet existing conditions such as utility poles, property lines, roadway geometry, trees, signs, buildings or any other obstacle within the right-of-way, at the discretion of the City.

C. Street Lighting Service.

1. New Development. For any subdivision of land or planned unit development, the landowner or developer, as a part of the minimum improvement standards, shall install street lighting on all public streets within the development. The recommended standards of this section and PGE shall be used for placement of light standards for uniformity of illumination.

2. Public Safety. Whenever the City determines that, in the interest of public safety, street lights should be installed anywhere in the City, the City Manager, or Public Works Director, or their designee, shall initiate the processes of both selection and installation of appropriate fixtures.

3. Installation and Maintenance. PGE shall install and maintain all materials and equipment. This includes lamp replacement on burnouts as soon as reasonably possible after notification.

D. Special Lighting.

1. Special lighting different from these standards may be approved by the review body when used for lighting parks, picnic areas, entrance areas of a subdivision and other areas requiring special lighting. Such lighting shall not be a part of the lighting district and shall be separately metered and paid for by the homeowners' association or those residents benefiting from the special lighting.

2. Any lighting proposed by a landowner or developer for any open space whether public or private in a subdivision or planned unit development shall be reviewed by the City and either approved or denied as a part of Section 16.63.060. All lighting in open spaces should

contribute to the safety, health, peace and general welfare of all users and the citizens of and visitors to Happy Valley.

E. Standards for Materials and Equipment for Street Lighting.

1. Local private and public residential and neighborhood streets outside of new subdivisions/PUDs, and excluding properties annexed to the City after August 1, 2003 and properties located in the Rock Creek and East Happy Valley Comprehensive Plan areas:

a. Poles (new or replacement): Fiberglass poles meeting PGE specifications, thirty (30) foot overall length for twenty-five (25) foot mounting height. Color to be bronze. Special poles may be required for minor arterials at the discretion of the City;

b. Bracket: An eight-inch arm pursuant to PGE specifications;

c. Luminaire: Shoebox luminaire having a drop lens or flat lens, as required;

d. Lamp: High pressure sodium vapor. Wattage of lamps to vary with design requirements, street designation and location;

e. All other standards for materials and equipment other than those set forth above shall be those established by the District in cooperation with PGE.

2. Local private and public residential and neighborhood streets including all developments within properties annexed to the City after August 1, 2003 and within the City's Urban Growth Management Area:

a. Poles (new): Decorative Westbrook pole, luminaire, lamp and all other standards for materials and equipment as established by Clackamas County Service District No. 5 and Portland General Electric.

3. Collector Streets, Minor Arterials, and Major Arterials. Lighting fixtures and equipment must be identified on the current Portland General Electric approved fixture list, and must be further approved by the City of Happy Valley Public Works Director and Clackamas County Service District No. 5.

F. Financing.

1. Method. The method of financing the installation, operation and maintenance of street lighting service facilities shall be by annual assessment against property benefited by street lighting. Property considered benefited by street lighting service is that property with access to a public right-of-way served with street lighting.

2. Means. Assessments shall be billed and collected with the property tax statement for Clackamas County and shall be identified on the statement as a special assessment for Clackamas County Service District No. 5.

3. Rate Schedule. Rate schedules shall be classified according to the primary type of electrical distribution. All areas of similar service shall be placed into one of the rate schedules that follow:

a. Rate Schedule A. Lots which are served by utility owned luminaries mounted on existing electrical distribution poles with overhead service. Some street light only poles may be used.

b. Rate Schedule B. Lots which are served by utility owned luminaries mounted on underground served street light only poles.

c. Rate Schedule C. Any other area not conforming to one of the above rate schedules and/or served by optional equipment.

d. Rate Schedule D. Adjustment of rate schedules for street or other public area lighting or lighting alterations having a citywide benefit.

4. Rate. Rates for each schedule shall be established on the basis of City and District cost for equipment, maintenance, energy and administration.

5. Benefit. All lots in each of rate schedules A, B and D are considered to be equally benefited without regard to frontage, lot size or luminaire size, spacing and location. All lots in rate schedule C are considered to be benefited according to the amount of frontage abutting the public right-of-way served by street lighting, without regard to lot size or luminaire size, spacing and location.

6. Initial Assessments. Assessments for new installations shall begin on July 1st following the installation. The initial assessment rate shall include a prorated amount from any prior fractional year of service plus the current rate established for the tax year beginning July 1st.

7. Special Conditions. Owners requesting street light installation shall be assessed for costs associated with trenching, conduit, transformers, restoration and any other initial cost of installation not provided for by State Schedule 91 for Portland General Electric Company. Installation costs shall be assessed by the same method as for street light services. Assessments exceeding one hundred dollars ($100.00) may be eligible for Bancroft financing in accordance with ORS 451.530 or appropriate state statute.

G. Removal.

1. Request. Whenever any interested person requests removal of street lights, the request shall be in petition form and shall contain the signatures of more than fifty (50) percent of the owners of land to be affected by the street light removal. Petitions shall contain a description of the area as well as the reason for requesting such removal.

2. Removal. The City, before attempting to remove street lighting, shall:

a. Provide for notice to affected owners of the intention to remove street lighting and to assess affected property for all of the cost;

b. Provide the affected owners with an estimate of the cost of removal;

c. Provide for a hearing at which time affected owners may appear to object to the removal of street lighting.

3. Notice. Notice shall be by first class mail to the name and mailing address of each owner as listed by the tax assessor of Clackamas County.

4. Cost. If street lighting is removed at the request of the affected owners, a charge shall be made consisting of the installed cost, less accrued depreciation and less salvage value, and plus cost of removal.

5. Payment. Removal costs shall be assessed by the same method as for street light service. Assessments exceeding one hundred dollars ($100.00) may be eligible for Bancroft financing in accordance with ORS 451.530 or appropriate state statute.

16.42.080 Shared outdoor recreation areas.

A. Applicability. The standards of this section apply to subdivisions of thirty (30) or more units.

B. Exemptions. The standards of this section do not apply to PUDs subject to the open space requirements of Section 16.63.130(H)(1), or to multifamily housing subject to the outdoor recreation area requirements of Section 16.44.010(C)(9).

C. Density. The recreation area requirements of this section shall not affect the number of dwelling units allowed by the density calculations in Section 16.63.020. Applicants may include the recreation area tract when applying lot size averaging and the flexible lot size standards in Section 16.63.030(A) in order to achieve the permitted density.

D. Recreation area tracts required by this section must meet the following standards:

1. Size. Each tract must be at least one hundred (100) feet wide by one hundred (100) feet deep;

2. Location. No more than fifty (50) percent of each recreation area tract may be in a Natural Resource Overlay Zone or in a Flood Management Overlay Zone;

3. Accessibility. Each recreation area tract must have at least thirty (30) feet of street frontage;

4. Ownership. The tracts must be owned in common by all of the owners of the land division site, owned by a homeowners' association, or owned by a public agency; and

5. Improvements. The applicant must submit a surety and construction timing agreement prior to final plat approval. The construction timing agreement will specify the installation schedule of all improvements.

E. Required Recreation Area Approval Criteria. All of the following approval criteria must be met:

1. Location. Each recreation area must be located on a part of the site that can be reasonably developed for recreational use;

2. Accessibility. Each recreation area must be reasonably accessible to all those who will live on the land division site; and

3. Improvements. Each recreation area must be improved in order to meet the recreational needs of those who will live on the land division site. Provision for both active and passive recreation must be included. Where there is more than one recreation area, not all areas must be improved for both active and passive recreation. Recreation areas shall include improvements such as children's play equipment, picnic areas, open lawn, benches, paved walkways or trails, gardens, or organized sport fields or courts. Surety may be required which specifies the timing of recreation area improvements. The recreation area improvements should be installed before any of the dwelling units on the site have received final inspection.

Chapter 16.43 PARKING AND LOADING

16.43.010 Purpose.

The intent of these regulations is to provide adequate capacity and appropriate location and design of on-site parking and loading areas as well as adequate access to such areas. The parking requirements are intended to provide sufficient parking in close proximity for residents, customers, and/or employees of

various land uses. These regulations apply to both motorized vehicles (hereinafter referred to as vehicles) and bicycles.

16.43.020 Applicability.

All developments involving land division or subject to site design review, including development of parking facilities, shall comply with the standards in this chapter.

16.43.030 Automobile parking standards.

A. General Requirements for Off-Street Parking and Loading.

1. Provision and Maintenance. The provision of required off-street parking for motor vehicles and bicycles, and loading facilities for motor vehicles, is a continuing obligation of the property owners. Building permits or other permits will only be issued after review and approval of site plans showing location of permanent access, parking and loading facilities.

2. An area shall not be considered a parking space unless it can be shown that the area is accessible and usable for that purpose, and has maneuvering area for the vehicles, as determined by the Engineering Manager or designee based on the City's Engineering and Design Standards Manual. Parking and maneuvering areas, including drive-through aisles, will be reviewed to ensure the design provides for the safe and adequate movement of all vehicles, pedestrians and service providers per the Engineering and Design Standards Manual.

3. New Structure or Use. When a structure is constructed or a new use of land is commenced, on-site vehicle and bicycle parking and loading spaces shall be provided in accordance with subsection B of this section or as otherwise modified through a planned development or specific area plan.

4. Alteration of Existing Structures. When an existing structure is altered to the extent that the existing use is intensified, on-site vehicle and bicycle parking shall be provided in the amount required for such intensification.

5. Increased Intensity. When increased intensity requires no more than two vehicle spaces, no additional parking facilities shall be required. However, the effects of changes, additions, or enlargements shall be cumulative. When the net effect of one or more changes generates a need for more than two spaces, the additional required spaces shall be provided. Additional spaces shall be required for the intensification but not for the original use.

6. Change in Use. When an existing structure or use of land is changed in use from one use to another use as listed in subsection B of this section, and the vehicle and bicycle parking requirements for each use type are the same, no additional parking shall be required. However, where a change in use results in an intensification of use in terms of number of vehicle and bicycle parking spaces required, additional parking space shall be provided in an amount equal to the difference between the number of spaces required for the existing use and number of spaces required for more intensive use.

7. Time of Completion. Required parking spaces and loading areas shall be improved and available for use prior to issuance of a temporary occupancy and/or final building inspection.

8. Inoperative Motor Vehicles. In any residential district, all motor vehicles incapable of movement under their own power or lacking legal registration shall be stored in a completely screened space, garage, or carport.

9. Truck Parking. In residential zoning districts, no overnight parking of commercial vehicles shall be permitted except as allowed through the provisions of a home occupation permit. Vehicles and equipment necessary for farming and truck gardening on the premises where such use is conducted are exempt from the restrictions of this subsection.

10. Availability of Parking Spaces. Required vehicle and bicycle parking spaces shall be unobstructed and available for the parking of vehicles and bicycles of residents, customers, patrons, and employees only. Parking spaces shall not be used for the storage of vehicles or materials or for parking of vehicles and bicycles used in conducting the business or use, and shall not be used for sale, repair, or servicing of any vehicle or bicycle.

11. Shared Bicycle Parking. Multifamily dwelling units with more than ten (10) required bicycle parking spaces may provide shared outdoor bicycle parking. The shared bicycle parking shall consist of at least fifteen (15) percent of the total required parking spaces and be located such that they are available for shared use by all occupants and guests of the development.

12. All dwellings shall have direct, unimpeded access from the required off-street parking spaces to the nearest public street, road or accessway.

B. Minimum Off-Street Parking Space Requirements and Calculations.

1. Unspecified Requirements. Vehicle and bicycle parking requirements for uses not specified in this chapter may be determined by the Planning Official based upon the requirements for similar specified uses.

2. Tandem parking (where two spaces are directly behind one another) may be counted as two parking spaces.

3. On-street parking within three hundred (300) feet of a use along its property frontage may be counted as part of the minimum spaces required.

4. Structured parking, fleet parking, spaces that are user paid (at a market rate approved by the City), on-street parking spaces and market rate surface parking lots are exempt from the maximum parking ratios.

5. 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.

6. Mixed Uses. In the case of mixed uses, shared parking between uses is encouraged. Where shared parking is not an option, the total required vehicle and bicycle parking shall be the sum of requirements of individual uses computed separately.

7. Transit. Existing development shall be allowed to redevelop a portion of their existing parking area for transit-oriented uses, including bus stops and pullouts, bus shelters, park and ride stations, and similar facilities, where appropriate. The redevelopment shall not result in greater than ten (10) percent reduction in the number of required on-site vehicle parking spaces.

8. Where uses are mixed in a single building, parking shall be a blend of the ratio required less ten (10) percent for the minimum number of spaces. The maximum number of spaces shall be ten (10) percent less than the total permitted maximum for each use.

9. Fractions. When the sum of the required vehicle or bicycle parking spaces is a fraction of a space less than one-half, the fraction shall be rounded down to the nearest whole number. When the fraction of the space is greater than one-half, the fraction shall be rounded up to the nearest whole number.

10. Maximum Parking Allowed. A maximum number of vehicular parking spaces allowed exists if provided for in Table 16.43.030-1.

11. Parking Table.

Development shall comply with Table 16.43.030-1. The following is except from minimum automobile parking:

a. Development on a lot or parcel within three-quarters mile of rail transit stops.
b. Development on a lot or parcel within one-half mile of frequent transit corridors, including any of the following:
    i. Priority transit corridors designated under OAR 660-012-0710
    ii. Corridors with bus service arriving with a scheduled frequency of at least four times an hour during peak service
    iii. Corridors with the most frequent transit route or routes in the community if the scheduled frequency is at least once per hour during peak service.

The following parking table shall be interpreted with the following notation: All square footage measurements are gross square feet of total floor area. Eighteen (18) lineal inches of bench shall be considered one seat.

Table 16.43.030-1

Proposed Use	Minimum Parking Spaces	Maximum Parking Spaces (if nothing is noted, there is no maximum)[1]		Bicycle Spaces	Percentage of Bicycle Spaces to be Long-Term Bicycle Parking
		Zone A	Zone B		
Residential					
Single-family detached	2 per dwelling			None required	N/A
Single-family attached (townhome), duplex, triplex, quadplex, cottage cluster	1 per dwelling[3, 5]			None required	N/A

Proposed Use	Minimum Parking Spaces	Maximum Parking Spaces (if nothing is noted, there is no maximum)[1]		Bicycle Spaces	Percentage of Bicycle Spaces to be Long-Term Bicycle Parking
		Zone A	Zone B		
Manufactured home park	1 per dwelling[5]			None required	N/A
Multifamily dwellings containing five or more units[4]	1 per dwelling[5]			1 space per unit	75
Congregate housing, retirement homes, intermediate care facilities, facilities and homes designed to serve people with psychosocial, physical, intellectual or developmental disabilities, emergency or transitional shelters for people experiencing homelessness, and domestic violence shelters	0			1 per 5 beds	50
Residential care facilities	0			1 per 5 beds	50
Community Services, Institutional and Semipublic Uses					
General office, government office	3 per 1,000 sq. ft. gross floor area	3.4 per 1,000 sq. ft.	4.1 per 1,000 sq. ft.	2 or 1 per 20 auto spaces whichever is greater	35
Community recreation buildings/covered picnic areas	1 per 250 sq. ft., or 1 space per four patrons to the maximum capacity, plus one space per employee on the largest shift			0.3 spaces per 1,000 sq. ft. of floor area	35
Church, chapel, auditorium	0.8 per 1,000 sq. ft.	0.6 per 1,000 sq. ft.	0.8 per 1,000 sq. ft.	1 space per 40 seats	35
Library or museums	2 per 1,000 sq. ft. gross floor area			2 or 1.5 spaces per 1,000 gross	35

Proposed Use	Minimum Parking Spaces	Maximum Parking Spaces (if nothing is noted, there is no maximum)[1]		Bicycle Spaces	Percentage of Bicycle Spaces to be Long-Term Bicycle Parking
		Zone A	Zone B		
				sq. ft., which is greater with 10 percent required to be long-term bicycle parking	
Lodge, fraternal and civic assembly with/or without eating and drinking facilities	1 per 4 fixed seats or 1 for each 50 sq. ft. of public assembly area where there are no fixed seats			2 or 1 per 20 vehicle spaces	35
Hospitals and medical centers	1 per 500			0.2 spaces per 1,000 gross sq. ft.	35
Medical and dental offices and clinics	4 per 1,000 sq. ft. of gross floor area	4.9 per 1,000 sq. ft.	5.9 per 1,000 sq. ft.	0.4 spaces per 1,000 sq. ft. of floor area	35
Schools					
Day care/small school	0			1.5 spaces per classroom	35
Preschool/kindergarten	2.5 per 1,000 sq. ft. gross floor area			1.5 spaces per classroom	35
School—Elementary	2 per classroom, plus recreation facilities, if applicable			2 spaces per classroom	35
School—Middle school/junior high	2 per classroom, plus recreation facilities, if applicable			4 spaces per classroom	35

Proposed Use	Minimum Parking Spaces	Maximum Parking Spaces (if nothing is noted, there is no maximum)[1]		Bicycle Spaces	Percentage of Bicycle Spaces to be Long-Term Bicycle Parking
		Zone A	Zone B		
School—Senior high	0.6 per 1,000 sq. ft. gross floor area, plus recreation facilities, if applicable	0.3 per 1,000 sq. ft.	0.6 per 1,000 sq. ft.	4 spaces per classroom	35
School—Vocational or college	3 per 1,000 sq. ft. of gross floor area, plus recreation facilities, if applicable	0.3 per 1,000 sq. ft.	3 per 1,000 sq. ft.	0.3 spaces per 1,000 sq. ft. of floor area (excluding dorms, for which residential facility standards apply)	35
Commercial Uses					
Retail sales, general and personal services	4.5 per 1,000 sq. ft. of gross floor area	5.1 per 1,000 sq. ft.	6.2 per 1,000 sq. ft.	0.3 per 1,000 sq. ft. of gross floor area	50
Shopping centers	4 per 1,000 sq. ft. of gross floor area	5.1 per 1,000 sq. ft.	6.2 per 1,000 sq. ft.	0.3 per 1,000 sq. ft. of gross floor area	50
Retail sales, bulky merchandise (examples: furniture or motor vehicles)	1 per 800 sq. ft. of gross floor area			0.3 per 1,000 sq. ft. of gross floor area	50
Grocery stores	2.9 per 1000 sq. ft. of gross floor area	5.1 per 1,000 sq. ft.	6.2 per 1,000 sq. ft.	0.33 spaces per 1,000 sq. ft. of gross floor area	50
Convenience market	2.3 per 1,000 sq. ft. of gross floor area			2 spaces per 1,000 sq. ft. of gross floor area	50

Proposed Use	Minimum Parking Spaces	Maximum Parking Spaces (if nothing is noted, there is no maximum)[1]		Bicycle Spaces	Percentage of Bicycle Spaces to be Long-Term Bicycle Parking
		Zone A	Zone B		
Restaurant/coffee shop/food-beverage carts (with drive-through)	11.4 spaces per 1,000 sq. ft. of gross floor area	12.4 per 1,000 sq. ft.	14.9 per 1,000 sq. ft.	1 space per 1,000 sq. ft. of gross floor area	25
Restaurant/coffee shop/food-beverage carts without drive-through	11.5 spaces per 1,000 sq. ft. of gross floor area[2]	19.1 per 1,000 sq. ft.	23.0 per 1,000 sq. ft.	1 space per 1,000 sq. ft. of gross floor area	25
Sports club/health spas/ recreation facilities	4.3 spaces per 1,000 sq. ft. of gross floor area or field area (see Section 16.43.030(H))	5.4 per 1,000 sq. ft.	6.5 per 1,000 sq. ft.	0.4 spaces per 1,000 sq. ft. of gross floor area	50
Basketball, tennis and racquetball clubs and courts	2 spaces per 1,000 sq. ft. of floor area; square footage of outdoor courts shall include the area of sport activity only (i.e., not including any sidelines, etc.)	1.3 per 1,000 sq. ft.	2 per 1,000 sq. ft.	0.4 spaces per 1,000 sq. ft. of gross floor area	50
Theaters/sports arenas/stadiums	0.3 spaces per seat or 6 linear feet of bench seating	0.4 per seat	0.5 per seat	0.04 spaces per seat or 60 linear feet of bench seating	10
Service station	3 spaces plus 2 spaces per service bay, if any			2 spaces or 0.2 per 1,000 sq. ft. of gross floor area whichever is greater	50
Service station with convenience market with gas pumps	2.3 spaces per 1,000 sq. ft. of gross floor area			2 spaces or 0.2 spaces per 1,000 sq. ft. of gross	50

Proposed Use	Minimum Parking Spaces	Maximum Parking Spaces (if nothing is noted, there is no maximum)[1]		Bicycle Spaces	Percentage of Bicycle Spaces to be Long-Term Bicycle Parking
		Zone A	Zone B		
				floor area, whichever is greater	
Parks and open spaces	None required, except that parking for sport courts, recreation facilities, community recreation buildings and covered picnic areas shall be computed separately. Parking for these facilities may be shared in accordance with Section 16.43.030(C)			4 spaces or 1 space per 20 vehicle parking spaces, whichever is greater	50
Bank (with drive-through)	4.3 per 1,000 sq. ft. of gross floor area	5.4 per 1,000 sq. ft.	6.5 per 1,000 sq. ft.	0.5 space per 1,000 sq. ft. of gross floor area	10
Bank without drive-through	5 per 1,000 sq. ft. of gross floor area			0.5 space per 1,000 sq. ft. of gross floor area	10
Industrial Uses					
Manufacturing, processing, packing, assembly, and fabrication	1.6 per 1,000 sq. ft. of gross floor area			0.1 space per 1,000 sq. ft. of gross floor area	10
Warehousing, freight movement distribution, and storage	0.5 space per 1,000 sq. ft. of gross floor area (if less than 150,000 sq. ft. of floor area)	0.4 per 1,000 sq. ft.	0.5 per 1,000 sq. ft.	0.1 space per 1,000 sq. ft. of gross floor area	10

Proposed Use	Minimum Parking Spaces	Maximum Parking Spaces (if nothing is noted, there is no maximum)[1]		Bicycle Spaces	Percentage of Bicycle Spaces to be Long-Term Bicycle Parking
		Zone A	Zone B		
	0.3 space per 1,000 sq. ft. of floor area (if equal to or greater than 150,000 sq. ft. of floor area)				
Wholesale, retail sales	0.8 space per 1,000 sq. ft. of gross floor area			0.1 space per 1,000 sq. ft. of gross floor area	30
Industrial, commercial services	0.8 space per 1,000 sq. ft. of gross floor area			0.1 space per 1,000 sq. ft. of gross floor area	30
Office (relating to industrial uses)	2.7 spaces per 1,000 sq. ft. of gross floor area	3.4 per 1,000 sq. ft.	4.1 per 1,000 sq. ft.	0.5 space per 1,000 sq. ft. of gross floor area	30

NOTES:

1 Parking maximums are based on A and B Zone designations, pursuant to Metro Regional Transportation Functional Plan Title 2, Regional Parking Management, and as listed in Table 3.08-3 - Regional Parking Ratio Table and illustrated in the Regional Parking Maximum Map. The zones are based on access to transit. Areas with twenty (20) minute peak hour transit service available within a one-quarter mile walking distance for bus transit or one-half mile walking distance for light rail transit shall be within Zone A. Cities and counties should designate Zone A parking ratios in areas with good pedestrian access to commercial or employment areas (within one-third mile walk from adjacent residential areas).

2 Enclosed outdoor seating area shall count as floor area in determining parking requirement for restaurants/coffee shop/food-beverage carts without drive-through.

3 The provision of additional parking spaces is not required for housing type conversions (e.g., conversion of a single-family detached dwelling to triplex), per LDC 16.62.020-1

4 In order to address the conversion of garages from parking to storage, in multifamily developments where parking is provided in individual garages an additional one hundred (100) square foot by ten (10) foot high storage area is required per dwelling unit. Alternatively, the applicant may provide a parking management plan. At a minimum, the parking management plan shall include quarterly inspections and sworn affidavits by the multifamily development owner/management company guaranteeing the utilization of garage parking for automobile parking spaces only. Further, the parking

management plan shall demonstrate that the parking pricing policies of the multifamily development will not result in additional on-street parking by tenants.

5 Single-room occupancy housing, residential units smaller than 750 square feet, affordable housing as defined in OAR 660-039-0010, and publicly supported housing as defined in ORS 456.250 are exempt from minimum automobile parking requirements.

C. Shared Use of Parking Facilities.

1. Except for residential uses, required parking facilities may be located on an adjacent parcel of land or separated by a maximum of two hundred (200) feet (measured as a direct pedestrian route).

2. The right to use the off-site parking must be evidenced by a recorded deed, lease, easement or similar written instrument.

3. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facility used jointly, to the extent that it can be shown by the owners or operators that the needs of the facilities do not materially overlap (e.g., uses primarily of day time versus night time uses) or typically provide services to many of the same patrons within the same development, and provided that such right of joint use is evidenced by a deed, lease, contract or similar written instrument establishing such joint use.

4. Any change in use which would produce a need for additional parking in a shared situation shall require additional review pursuant to Section 16.62.040.

D. Carpool, Hybrid/Electric Car and Vanpool Parking. New industrial, commercial, and institutional uses with more than twenty (20) employee parking spaces on site shall meet the following minimum requirements for carpool, hybrid/electric car and vanpool parking.

1. For this section, a hybrid car is defined as an automobile that is powered by two fuel sources (i.e., gas and electricity) and achieves a combined EPA gas mileage of forty-five (45) miles per gallon or more.

2. Five spaces or five percent of the parking spaces on site, whichever is less, must be reserved for carpool/hybrid/electric car use during normal working hours. More spaces may be reserved, but they are not required.

3. The spaces will be those closest to the building entrance or elevator, but not closer than the spaces for disabled parking and those signed for exclusive customer use.

4. Signs must be posted indicating these spaces are reserved for carpool/hybrid/electric car use during normal working hours and those hours must be included on the sign.

E. Parking Location.

1. Vehicle parking required for residential uses shall be provided on the development site of the primary structure. Required parking for all other uses shall be provided only on streets, within garages, carports, and other structures, or on driveways or parking lots that have been developed in conformance with this code.

2. No off-street parking shall be allowed in the landscaped yard areas of any lot.

3. Bicycle parking required for all uses in all districts shall be provided on the development site in accordance with Table 16.43.030-1 of this section.

4. Parking areas, which abut a residential zoning district, shall meet the setback of the most restrictive adjoining residential zoning district.

5. Required parking shall not be located in a required front or side yard setback area abutting a public street except in industrial districts. For single-family detached, duplexes, triplexes, quadplexes, and townhomes, required parking may be located in front of a garage.

6. Parking areas shall be setback from a lot line adjoining a street the same distance as the required building setbacks. Regardless of other provisions, a minimum setback of ten feet shall be provided along the property fronting on a public street. The setback area shall be landscaped as provided in this code.

F. Parking Area Design, Size, Layout and Access. All off-street parking facilities, vehicular maneuvering areas, driveways, loading facilities, accessways, and private streets shall conform to the standards set forth in this section.

1. All areas used for parking and maneuvering of cars shall be surfaced with asphalt, concrete or other approved impervious, permeable, or semi-permeable surface, and shall provide for suitable drainage.

2. The following table states the minimums for parking space size:

Table 16.43.030-2 Off-Street Parking Matrix

Required Space and Aisle Dimensions in Feet

Standard Size Vehicles						**Compact Size Vehicle**				
Angle	**Stall Width**	**Stall Depth**	**Aisle Width**	**Module Width**	**Bumper Overhang**	**Stall Width**	**Stall Depth**	**Aisle Width**	**Module Width**	**Bumper Overhang**
0º (parallel)	8.0	24.0	N/A	N/A	N/A	8.0	20.0	N/A	N/A	N/A
45º	9.0	17.5	12.0	47.0	2.0	8.0	15.5	11.0	42.0	2.0
60º	9.0	19.0	16.0	54.0	2.5	8.0	17.0	14.0	48.0	2.5
75º	9.0	19.5	23.0	62.0	2.5	8.0	17.5	21.0	56.0	2.5
90º	9.0	18.5	24.0	61.0	2.5	8.0	16.0	20.0	52.0	1.5

3. Parking Lot Layout. Parking area setbacks shall be landscaped with major trees, shrubs, and groundcover as specified in Section 16.42. Wheel stops, bumper guards, or other method to protect landscaped areas shall be provided. No vehicle may project over a property line or a public right-of-way. Parking may project over an internal sidewalk, but a minimum clearance of five feet for safe pedestrian circulation is required. Parking areas, driveways, aisles and turnarounds shall be paved with concrete, asphalt or comparable surfacing, constructed to City standards for off-street vehicle areas.

4. Groups of more than three parking spaces shall be permanently marked.

5. Backing and Maneuvering. Except for a single-family dwelling or two-family dwelling, groups of more than three parking spaces shall be provided with adequate aisles or turnaround areas so that all vehicles enter the right-of-way (except for alleys) in a forward manner. Parking spaces shall not have backing or maneuvering movements for any of the parking spaces occurring across public sidewalks or within any public street, except as approved by the Public Works Director. Evaluations of requests for exceptions shall consider constraints due to lot patterns and impacts to the safety and capacity of the adjacent public street, bicycle and pedestrian facilities.

6. Parking Lot Lighting.

a. Artificial lighting shall be provided in all required off-street parking areas.

b. The "Lighting Zone" (LZ) shall determine the limitations for lighting. The Lighting Zones shall be specified as follows:

i. LZ0: No Ambient Lighting. Areas where the natural environment will be seriously and adversely affected by lighting. Impacts include disturbing the biological cycles of flora and fauna and/or detracting from human enjoyment and appreciation of the natural environment. Human activity is subordinate in importance to nature. The vision of human residents and users is adapted to the darkness, and they expect to see little or no lighting. When not needed, lighting should be extinguished.

ii. LZ1: Low Ambient Lighting. Areas where lighting might adversely affect flora and fauna or disturb the character of the area. The vision of human residents and users is adapted to low light levels. Lighting may be used for safety and convenience but it is not necessarily uniform or continuous. After operating hours, most lighting should be extinguished or reduced as activity levels decline.

iii. LZ2: Moderate Ambient Lighting. Areas of human activity where the vision of human residents and users is adapted to moderate light levels. Lighting may typically be used for safety and convenience but it is not necessarily uniform or continuous. After curfew, lighting may be extinguished or reduced as activity levels decline.

iv. LZ3: Moderately High Ambient Lighting. Areas of human activity where the vision of human residents and users is adapted to moderately high light levels. Lighting is generally desired for safety, security and/or convenience and it is often uniform and/or continuous. After curfew, lighting may be extinguished or reduced in most areas as activity levels decline.

v. LZ4: High Ambient Lighting. Areas of human activity where the vision of human residents and users is adapted to high light levels. Lighting is generally considered necessary for safety, security and/or convenience and it is mostly uniform and/or continuous. After curfew, lighting may be extinguished or reduced in some areas as activity levels decline.

c. The total installed initial luminaire lumens of all outdoor lighting shall not exceed the total site lumen limit. The total site lumen limit shall be determined using LZ-2 for either the Parking Space Method (Table A) or the Hardscape Area Method (Table B).

Only one method shall be used per permit application, and for sites with existing lighting, existing lighting shall be included in the calculation of total installed lumens. The total installed initial luminaire lumens is calculated as the sum of the initial luminaire lumens for all luminaires:

Table A - Allowed Total Initial Luminaire Lumens per Site for Non-residential Outdoor Lighting, Per Parking Space Method
May only be applied to properties up to 10 parking spaces (including handicapped accessible spaces).

LZ-0	LZ-1	LZ-2	LZ-3	LZ-4
350 lms/space	490 lms/space	630 lms/space	840 lms/space	1,050 lms/space

Table B - Allowed Total Initial Lumens per Site for Non-residential Outdoor Lighting, Hardscape Area Method
May be used for any project. When lighting intersections of site drives and public streets or road, a total of 600 square feet for each intersection may be added to the actual site hardscape area to provide for intersection lighting.

LZ-0	LZ-1	LZ-2	LZ-3	LZ-4
Base Allowance				
0.5 lumens per SF of Hardscape	1.25 lumens per SF of Hardscape	2.5 lumens per SF of Hardscape	5.0 lumens per SF of Hardscape	7.5 lumens per SF of Hardscape

Table B - *Lumen Allowances, in Addition to Base Allowance*

	LZ 0	LZ 1	LZ 2	LZ 3	LZ 4
Additional allowances for sales and service facilities. No more than two additional allowances per site, Use it or Lose it.					
Outdoor Sales Lots. This allowance is lumens per square foot of uncovered sales lots used exclusively for the display of vehicles or other merchandise for sale, and may not include driveways, parking or other non sales areas. To use this allowance, luminaires must be within 2 mounting heights of sales lot area.	0	4 lumens per square foot	8 lumens per square foot	16 lumens per square foot	16 lumens per square foot
Outdoor Sales Frontage. This allowance is for lineal feet of sales frontage immediately adjacent to the principal viewing location(s) and unobstructed for its viewing length. A corner sales lot may include two adjacent sides provided that a different principal viewing location exists for each side. In order to use this allowance, luminaires must be located between the principal viewing location and the frontage outdoor sales area	0	0	1,000 per LF	1,500 per LF	2,000 per LF
Drive Up Windows. In order to use this allowance, luminaires must be within 20 feet horizontal distance of the center of the window.	0	2,000 lumens per drive-up window	4,000 lumens per drive-up window	8,000 lumens per drive-up window	8,000 lumens per drive-up window
Vehicle Service Station. This allowance is lumens per installed fuel pump.	0	4,000 lumens per pump (based on 5 fc horiz)	8,000 lumens per pump (based on 10 fc horiz)	16,000 lumens per pump (based on 20 fc horiz)	24,000 lumens per pump (based on 20 fc horiz)

d. Lighting shall be directed into the site and shall be arranged to not produce direct glare on adjacent properties. All luminaires shall be rated and installed according to Table C, lighting zone 2:

Table C - Maximum Allowable Backlight, Uplight and Glare (BUG) Ratings

May be used for any project. A luminaire may be used if it is rated for the lighting zone of the site or lower in number for all ratings B, U and G. Luminaires equipped with adjustable mounting devices permitting alteration of luminaire aiming in the field shall not be permitted.

TABLE C-1	Lighting Zone 0	Lighting Zone 1	Lighting Zone 2	Lighting Zone 3	Lighting Zone 4
Allowed Backlight Rating*					
Greater than 2 mounting heights from property line	**B1**	**B3**	**B4**	**B5**	**B5**
1 to less than 2 mounting heights from property line and ideally oriented**	**B1**	**B2**	**B3**	**B4**	**B4**
0.5 to 1 mounting heights from property line and ideally oriented**	**B0**	**B1**	**B2**	**B3**	**B3**
Less than 0.5 mounting height to property line and properly oriented**	**B0**	**B0**	**B0**	**B1**	**B2**

*For property lines that abut public walkways, bikeways, plazas, and parking lots, the property line may be considered to be 5 feet beyond the actual property line for purpose of determining compliance with this section. For property lines that abut public roadways and public transit corridors, the property line may be considered to be the center-line of the public roadway or public transit corridor for the purpose of determining compliance with this section. NOTE: This adjustment is relative to Table C-1 and C-3 only and shall not be used to increase the lighting area of the site.

** To be considered 'ideally oriented', the luminaire must be mounted with the backlight portion of the light output oriented perpendicular and towards the property line of concern.

Table C - 2 Maximum Allowable Uplight (BUG) Ratings - Continued

TABLE C-2	Lighting Zone 0	Lighting Zone 1	Lighting Zone 2	Lighting Zone 3	Lighting Zone 4
Allowed Uplight Rating	U0	U1	U2	U3	U4
Allowed % light emission above 90° for street or Area lighting	0%	0%	0%	0%	0%

Table C - 3 Maximum Allowable Glare (BUG) Ratings - Continued

TABLE C-3	Lighting Zone 0	Lighting Zone 1	Lighting Zone 2	Lighting Zone 3	Lighting Zone 4
Allowed Glare Rating	G0	G1	G2	G3	G4
Any luminaire not ideally oriented*** with 1 to less than 2 mounting heights to any property line of concern	G0	G0	G1	G1	G2
Any luminaire not ideally oriented*** with 0.5 to 1 mounting heights to any property line of concern	G0	G0	G0	G1	G1
Any luminaire not ideally oriented*** with less than 0.5 mounting heights to any property line of concern	G0	G0	G0	G0	G1

*** Any luminaire that cannot be mounted with its backlight perpendicular to any property line within 2X the mounting heights of the luminaire location shall meet the reduced Allowed Glare Rating in Table C-3.

e. Light elements shall be fully shielded and shall have no light emitted above ninety (90) degrees. Examples of acceptable lighting elements, or fixtures, can be found below:

f. Lighting shall be provided in all bicycle parking areas so that all facilities are thoroughly illuminated and visible from adjacent sidewalks or vehicle parking lots during all hours of use.

7. Parking stalls for compact vehicles shall not exceed thirty-five (35) percent of the total parking stalls required by Table 16.43.030-1. Stalls in excess of the number required by Table 16.43.030-1 can be compact stalls.

G. Accessible/Handicapped Parking Facilities. Disabled person accessible parking shall be provided for all uses consistent with the requirements of the Oregon State Structural Specialty Code and/or Federal requirements, whichever is more restrictive.

H. Recreation facilities are public or private facilities used for active recreation activities. They may be indoor or outdoor and include facilities such as athletic fields, swimming pools, miniature golf, and skateboard parks.

1. Parking requirements for athletic fields shall be computed based on the square footage of the area of sport activity (i.e., the field of play not including any sidelines, etc.).

2. In no case shall the number of parking spaces required for an athletic field exceed thirty (30) spaces per field except where the field is part of a stadium or sports arena.

3. Parking requirements recreation facilities other than athletic fields shall be computed based on gross square footage of the building and/or improved or fenced area.

16.43.040 Bicycle parking standards.

A. Required Number and Type.

1. Bicycle parking requirements are provided in the parking Table 16.43.030-1.

2. For specific uses listed in Table 16.43.030-1 under the following categories a portion of the required bicycle parking shall be provided as long-term bicycle parking spaces: Multi-family Dwellings; Schools; Community Services, Institutional and Semipublic Uses; Commercial Uses; and Industrial Uses.

a. Long-term bicycle parking is defined as parking that is secure for longer stays (more than four hours). Long-term bicycle parking may be provided through lockable enclosures, a designated bicycle storage area inside a building on-site, a covered rack, or another form of sheltered parking where the bicycle can be stored.

b. For major transit stops and park-and-ride lots that are proposed for commuter use only, at least four bicycle parking spaces shall be required; one hundred (100) percent of all required bicycle parking spaces shall be long-term spaces.

B. Location and Design.

1. Bicycle parking shall be located on-site, convenient to building entrances, and have direct access to both the public right-of-way and to the main entrance of the principal structure.

2. Bicycle parking should be no further from the main building entrance than the distance to the closest vehicle space, or fifty (50) feet, whichever is less. Long-term bicycle parking should be incorporated whenever possible into building design. Short-term bicycle parking, when allowed within a public right-of-way, should be coordinated with the design of street furniture, as applicable.

3. For facilities with multiple buildings or parking lots, bicycle parking shall be located in areas of greatest use and convenience to bicyclists.

4. Bicycle parking shall not impede or create a hazard to pedestrians. The location of bicycle parking facilities shall not conflict with vision clearance standards.

5. Bicycle parking may be provided within the public right-of-way in areas without building setbacks, subject to the approval of the appropriate governing official and provided it meets the other bicycle parking requirements.

6. If the bicycle parking area is located within the vehicle parking area, the bicycle facilities shall be separated from vehicular maneuvering areas by curbing or other barrier to prevent damage to parked bicycles.

7. Curb cuts shall be installed to provide safe, convenient access to bicycle parking areas.

C. Bicycle Parking Space Dimensions.

1. Each required bicycle parking space shall be at least two and one-half feet by six feet. If covered, vertical clearance of seven feet must be provided.

2. An access aisle of at least five feet wide shall be provided and maintained beside or between each row of bicycle parking. Vertical or upright bicycle storage structures are exempted from the parking space length.

D. Security.

1. Bicycle parking facilities shall offer security in the form of either a lockable enclosure in which the bicycle can be stored or a stationary object (i.e., a "rack") upon which the bicycle can be located.

2. Racks requiring user-supplied locks shall accommodate both cable and U-shaped locks. Racks shall be designed and installed to permit the frame and both wheels to be secured, with removal of the front wheel, or the frame and one wheel to be secured, if both wheels remain on the bicycle.

3. Bicycle racks shall be securely anchored to the ground or a structure and shall be designed to hold bicycles securely by means of the bicycle frame.

4. Required bicycle parking inside a building shall be provided in a well illuminated, secure location within fifty (50) feet of a building entrance.

5. Outdoor bicycle parking spaces shall be clearly visible from the building entrance or the public right-of-way and shall be located within fifty (50) feet of the public entrance to the building unless clustered pursuant to Section 16.31.030, in which case the parking spaces shall be no more than one hundred (100) feet from a public entrance.

6. If the outdoor vehicle parking area for a use has lighting, then the bicycle parking areas associated with that same use are required to be lit to the same extent.

E. Signing. Where bicycle facilities are not directly visible and obvious from the public right-of-way, entry or directional signs shall be provided to direct bicyclists from the public right-of-way to the bicycle parking facility.

F. Exemptions. Temporary street-side sales and temporary uses such as fireworks stands, Christmas tree sales lots, single-family and are exempt from the standards. (Ord. 507 § 1, 2016; Ord. 389 § 1(Exh. A), 2009)

16.43.050 Off-street loading facilities.

A. The minimum area required for commercial and industrial loading spaces is as follows:

Table 16.43.050-1 Commercial and Industrial Loading Space Requirements

Use	Aggregate Floor Area (sq. ft.)	Berths Required	Type
Freight terminals, industrial plants, manufacturing or wholesale establishments, warehouses	12,000—36,000	1	A
	36,001—60,000	2	A
	60,001—100,000	3	A
	Each additional 50,000 or fraction thereof	1 additional	A
Hospitals, convalescent homes and similar institutions	10,000—100,000	1	B
	over 100,000	2	B
Department stores, retail establishments, restaurants, grocery stores, and commercial establishments not otherwise mentioned	7,000—24,000	1	B
	24,001—50,000	2	B
	50,001—100,000	3	B
	Over 100,000—each additional 50,000 or major fraction thereof	1 additional	B
Hotels or office buildings	25,000—40,000	1	B
	40,001—100,000	2	B
	Each additional 10,000 or major fraction thereof	1 additional	B
Schools	Over 10,000	1	B

B. Uses Not Specifically Mentioned. In the case of a use not specifically mentioned, the requirements for off-street loading facilities shall be the same as the above-mentioned use which, as determined by the Planning Official or designee, is most similar to the use not specifically mentioned.

C. Concurrent Different Uses. When any proposed structure will be used concurrently for different purposes, final determination of loading requirements will be made by the Planning Official or designee but in no event shall the loading requirements be less than the total requirement for each use based upon its aggregate floor area.

D. Loading berths shall conform to the following minimum size specifications:

1. Type “A” berths shall be at least sixty (60) feet long by twelve (12) feet wide by fifteen (15) feet high, inside dimensions, with a sixty (60) foot maneuvering apron.

2. Type “B” berths shall be at least thirty (30) feet long by twelve (12) feet wide by fourteen (14) feet six inches high, inside dimensions, with a thirty (30) foot maneuvering apron.

E. Loading areas shall be screened from public view from public streets and adjacent properties except in industrial districts and shall require the same screening as parking lots. Screening may be waived in commercial districts if the applicant can demonstrate the type and size of loading vehicles will not detract from the project’s aesthetic appearance and the timing of loading will not conflict with the hours and operation of the surrounding uses.

F. Sufficient space for turning and maneuvering of vehicles shall be provided on the site in accordance with the standard specifications established by the Public Works Director.

G. Entrances and exits shall be provided at locations approved in accordance with applicable ordinances and statutes.

H. No off-street loading facilities shall be required where buildings abut a public alley in such a manner that loading operations can be conducted from said alley in accordance with applicable traffic and parking ordinances.

I. The off-street loading facilities shall in all cases be on the same lot or parcel as the structure they are intended to serve. In no case shall the required off-street loading spaces be part of the area used to satisfy the off-street parking requirements.

J. School Loading Requirements. A driveway designed for continuous forward flow of passenger vehicles for the purpose of loading and unloading children shall be located on the site of a school (other than a pre-school) having a capacity greater than twenty-five (25) students.

K. Exceptions and Adjustments. Loading areas within a street right-of-way in areas zoned mixed-use commercial in the Regional Center or Town Center may be approved when all of the following conditions are met:

1. Loading areas must be signed to limit the duration of the activity, which may not exceed one hour for each loading operation.

2. Proposed loading areas must support a use that requires infrequent loading activity. Infrequent loading activity is defined as less than three operations that occur daily between 5:00 a.m. and 12:00 a.m., or all operations that occur between 12:00 a.m. and 5:00 a.m. at a location that is not adjacent to a residential zone.

3. The proposed loading area:

   a. Does not unreasonably obstruct traffic;

   b. Does not obstruct a primary emergency response route; and

   c. Is acceptable to the applicable roadway authority.

Chapter 16.44 SPECIAL STANDARDS FOR CERTAIN USES

16.44.010 Design standards for multifamily housing.

A. The purpose of this section is to provide for additional review to encourage the development of multifamily residential buildings that are visually engaging and compatible with one another and with the surrounding district.

B. Multifamily and single-family attached residential developments shall comply with the requirements of this chapter and the following additional requirements.

1. Roofs. Roofs shall meet the following additional requirements:

a. Roofs shall be gabled or hip type roofs (minimum pitch 3:12) with an overhang that is commensurate with the pitch of the roof and using shingles or similar roofing materials. Alternatives may be approved where the developer can demonstrate that abutting structures or the majority of structures within three hundred (300) feet have roofs similar to what is proposed.

b. Modulation of the building mass shall distinguish individual units and break down the scale of the building through one or more of the following between units:

i. Vertical offsets that provide breaks in the roof line;

ii. Horizontal offsets that provide variation in the façade plane; and/or

iii. Variations of the roof form, such as dormers or street facing gable ends that provide breaks of the roof line.

2. Entries.

a. Entries shall be sheltered with an overhang, portico or recessed entry or otherwise articulated with an architecturally detailed entry.

b. Primary dwelling entries shall face a public street or designated pedestrian way and be visible from the street whenever feasible.

c. Multiple Units. Ground floor units shall face a public street or designated pedestrian way and be visible from the street whenever feasible and shall avoid out-of-direction travel. Upper story units may share entries.

d. Secondary entries may face parking lots or loading areas.

3. Building Façades Design.

a. Detailed Design. Detailed design shall be provided by using at least eight of the following fourteen (14) architectural features on all elevations as appropriate for the proposed building type and style (see Figures 16.44.010-4 and 16.44.010-5; may vary features on rear/side/front elevations):

i. Dormers;

ii. Gables;

iii. Recessed entries;

iv. Covered porch entries;

v. Cupolas or towers;

vi. Pillars or posts;

vii. Eaves (minimum of six-inch projection);

viii. Offsets in building face or roof (minimum of sixteen (16) inches);

ix. Window trim (minimum four inches wide);

x. Bay windows;

xi. Balconies;

xii. Decorative patterns on exterior finish (e.g., scales/shingles, wainscoting, ornamentation or similar features);

xiii. Decorative cornices and roof lines (e.g., for flat roofs);

xiv. An alternative feature providing for visual relief, similar to options i through xiv.

b. Residential Mixed Use Structures. The residential portion of a mixed use structure shall be differentiated through the use of design elements such as decks, balconies, landscaping, chimneys, dormers, gable or hipped roofs or step backs above the second story to provide upper story deck areas. Masonry should be used for chimney construction.

Figure 16.44.010-4 Example of Architectural Details—Multifamily

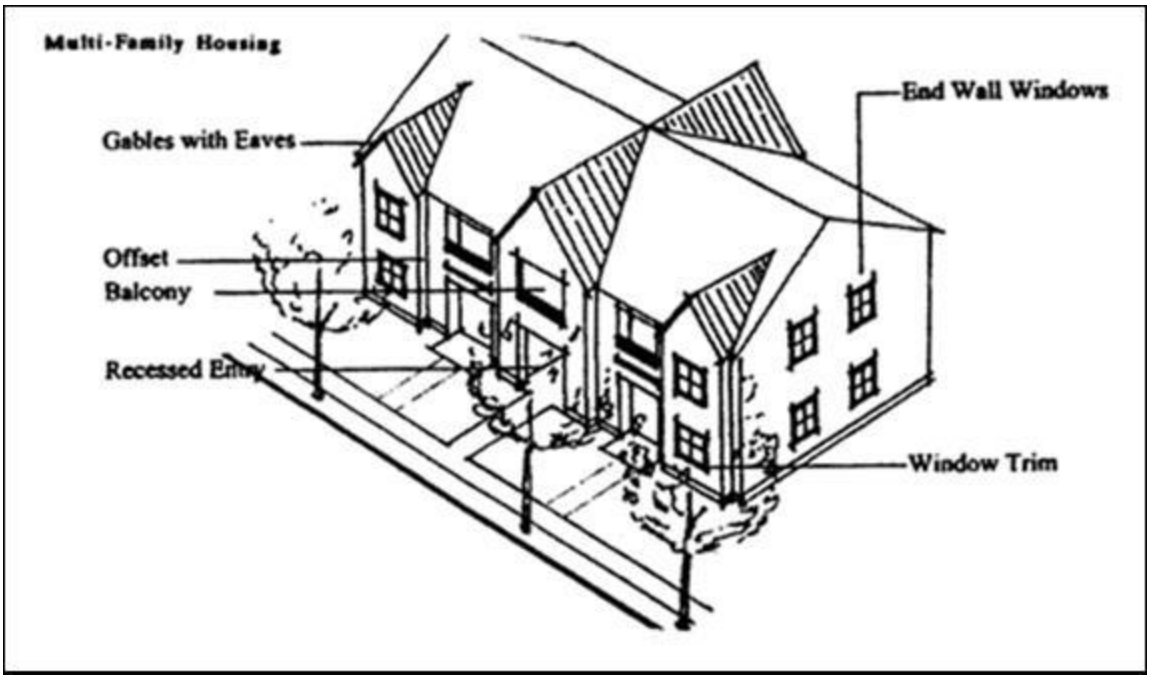
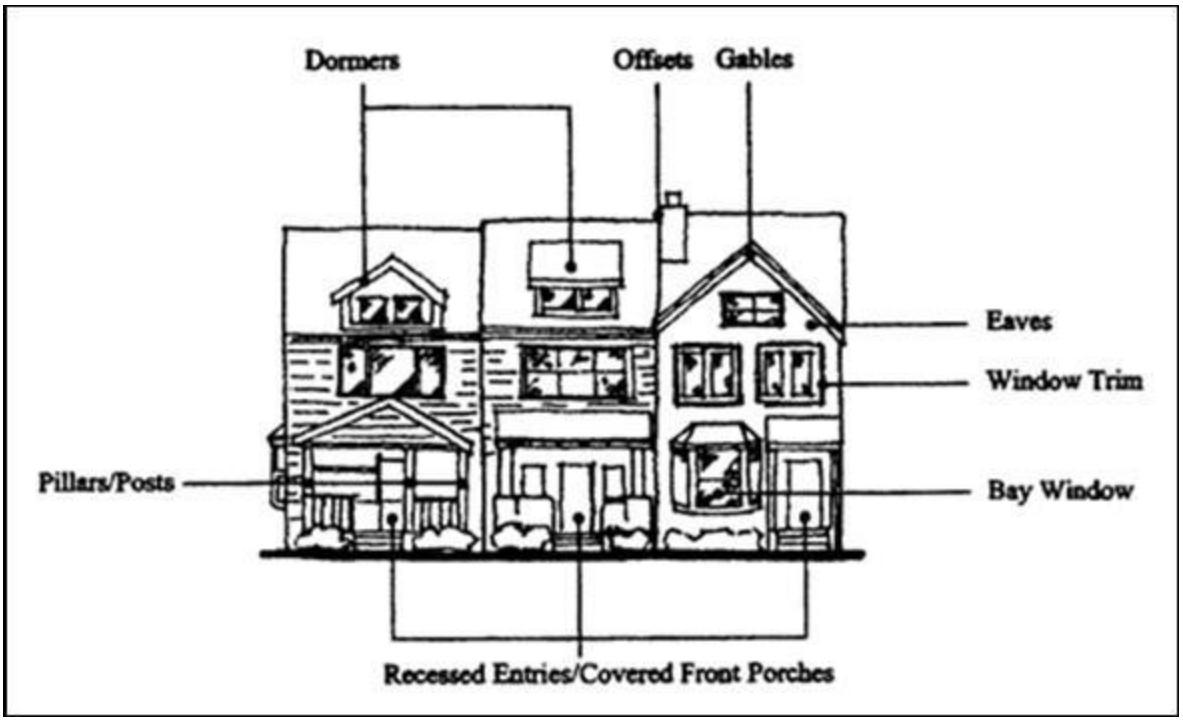


Figure 16.44.010-5 Example of Architectural Details—Townhomes



c. Landscape/Hardscape Design. The following standards apply in addition to the landscaping standards in Chapter 16.42.

i. Where new or substantially remodeled buildings are set back from property lines and sidewalks, intervening landscaping shall be designed to invite the public in, not to provide separation.

ii. Where non-pedestrian space is placed between a building and a sidewalk, benches, low sitting walls or other street furniture shall be placed in order to enliven the sidewalk.

iii. Small areas of landscaping and paving in courtyards, entryways, building nooks and other areas shall use materials and designs similar to adjacent public spaces where such use will make the area appear larger or more inviting. This requirement is intended to minimize the transition from public to private space, but is not intended to restrict changes in material where it is functionally necessary or where it will avoid visual monotony.

iv. Hardscaping or landscaping shall be located in stopping areas created outside of pedestrian circulation areas. Stopping areas may be created by an enclosure, a change in grade or a change in paving materials.

v. Decorative iron gates and hangers for signs, flags and hanging baskets may be required as part of the landscape plan.

vi. Miscellaneous solid wood materials such as fences, decks, balconies, pergolas, etc. that are not painted in conjunction with the greater development color palette shall be uniformly stained any variety of the color brown and be required by the

development's Codes, Covenants and Restrictions (CC&Rs) to be maintained over time.

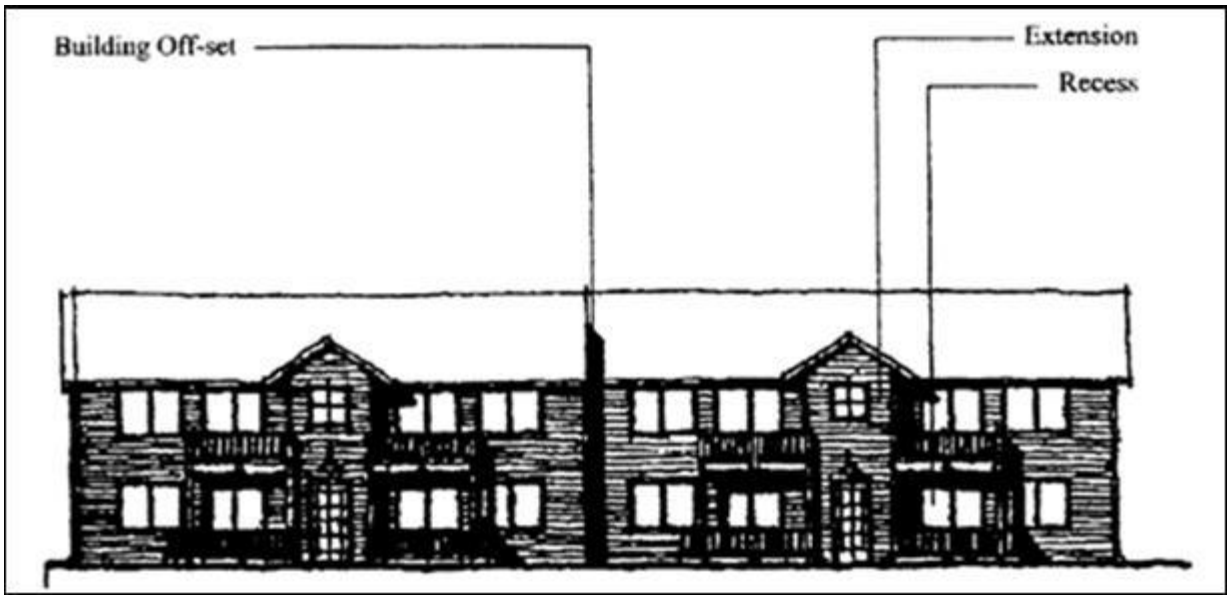
4. Offsets. Along the vertical face of a structure, when facing a public street, pedestrian way or an abutting residential use, offsets shall occur at a minimum of every twenty-four (24) feet by providing any two of the following (see Figure 16.44.010-6):

a. Recesses (decks, patios, entrances, floor area, etc.) of a minimum depth of four feet;

b. Extensions (decks, patios, entrances, floor area, etc.) at a minimum depth of four feet, with a maximum length of an overhang not to exceed twenty-five (25) feet;

c. If a partially enclosed covered porch is proposed, this can meet one of the offset requirements provided the porch is four feet deep and at least one hundred twenty-five (125) square feet in area.

Figure 16.44.010-6 Example of Extensions and Recesses



5. Private Outdoor Areas.

a. A separate outdoor area of not less than forty-eight (48) square feet shall be attached to each ground level dwelling unit. These areas shall be separated from common outdoor areas in a manner, which enables the resident to control access from separate to common areas with elements such as walls, fences, or shrubs.

b. A separate outdoor area of not less than forty-eight (48) square feet in the form of balconies, terraces, or porches shall be provided for each dwelling unit located above the ground level.

6. Parking Lots. Parking lots in multifamily developments shall not occupy more than fifty (50) percent of the frontage of any public street abutting the lot or building.

7. Individual Storage Areas. Enclosed storage areas shall be required and may be attached to the exterior of the dwelling unit to accommodate garden equipment, patio furniture, barbeques,

bicycles, etc. Storage areas may be provided within garages if the required storage area is in addition to the required parking areas required.

8. Carports and Garages. If carports and garages are provided, the form, materials, color and construction shall be compatible with the complex they serve.

9. Shared Outdoor Recreation Areas. Multifamily residential development shall provide usable recreation areas for developments containing more than five dwelling units at the rate of two hundred (200) square feet per dwelling unit. Such areas shall be counted as part of the required landscaping. Examples include, but are not limited to, playgrounds, exercise trails, swimming pools, etc. Usable recreation area may also include slopes, wetlands, natural resource buffer areas, and other natural site features, however, at least fifty (50) percent of the recreation area must be located outside the boundaries of such areas and slopes may not exceed ten (10) percent in the fifty (50) percent usable recreation area. Gazebos and other outdoor covered spaces are encouraged and qualify as one and one-fourth square feet for every one square foot of required shared recreation area. The shared outdoor recreation area shall be located and designed in a manner which:

a. Provides approximately the same accessibility to the maximum number of dwelling units possible;

b. Windows shall be located to encourage watching over entry areas, shared recreational areas, laundry areas, walkways and parking areas from windows in at least two adjacent dwelling units. These windows must be located in kitchen, living room, dining room, or other activity rooms (bedrooms or bathrooms are not included);

c. Provides a separation from parking and driveway areas with a landscaped transition area measuring a minimum of ten (10) feet wide;

d. Controls access to shared outdoor areas from off-site as well as from on-site parking and entrance areas with features such as fencing, walls and landscaping;

e. Provides a usable surface materials such as lawn, decks, wood chips, sand and hard surface materials (concrete/asphalt).

10. Safety and Security.

a. Provide an outdoor lighting system that facilitates police observation and resident observation through strategic location, orientation and brightness without being obtrusive by shining into residential units or adjacent residential developments.

b. Establish a directory for apartment complexes of five or more units, which clearly orients visitors and emergency service providers as to the location of residential units. Where possible, this system should be evident from the primary vehicle entryway.

11. Service, Delivery and Screening.

a. Locate postal delivery areas in a convenient location efficiently designed for residents and mail delivery personnel and in accordance with U.S. Postal Service requirements.

b. Provide pedestrian access from unit entries to postal delivery areas, garbage and recycling collection areas, shared activity areas and parking areas. Elements such as, but

not limited to, concrete paths, striped walkways or raised walkways through vehicular areas or gravel trails will meet this requirement.

c. Provide garbage collection and recycling areas in convenient locations for the service provider and residents.

d. Garbage collection areas shall have a concrete floor surface and shall have a gate on the truck-loading side and a separate pedestrian access.

e. Outdoor storage areas, garbage containers and recycling bins shall be screened from view in one of the following manners:

i. A solid sight obscuring wall or fence not less than six feet in height and constructed of durable materials compatible with the primary structure(s) shall surround these areas;

ii. Evergreen plant materials that will retain their screening ability year-round and will reach the height of six feet within three years from time of planting. An overlap of three inches is required of the evergreen plant screening. The material shall completely screen the area from the public view.

f. Electrical and Mechanical Equipment. On and above-ground electrical and mechanical equipment such as transformers, heat pumps and central air conditioner units shall be completely screened with sight-obscuring fences, walls or landscaping.

12. The Planning Official or designee may allow exceptions to these standards without the need to obtain a formal variance pursuant to Chapter 16.71 provided at least one of the following circumstances is met:

a. The applicant demonstrates that the physical characteristics of the site or existing structure make compliance impractical (e.g., they include, but are not limited to, steep slopes, wetlands, other bodies of water, trees or other nature features of the site, buildings or other existing development, utility lines and easements, etc.); or

b. The applicant demonstrates that the alternative design is exceptional in the quality of detailing, appearance or materials and/or creates a positive unique relationship to other structures, views or open space in a manner that accomplishes the purpose of design review standards for multifamily developments in Section 16.44.010.

13. A request for exception under this provision may be processed as part of the underlying application or separately as a Design Review II application.

14. Lighting Standards.

a. For residential properties including multiple residential properties not having common areas all outdoor luminaires shall be fully shielded and shall not exceed the allowed lumen output in Table G, column LZ2 and row 2.

15. Multifamily dwellings in Village Commercial shall comply with the following:

a. Any dwelling unit located on the second floor must have an exterior door.

b. Exterior staircases are not permitted.

c. The most architecturally significant façade and primary entrance of development along Oregon Trail Drive shall be oriented toward Oregon Trail Drive.

Table G - Residential Lighting Limits

Lighting Application	LZ 0	LZ 1	LZ 2	LZ 3	LZ 4
Row 1 Maximum Allowed Luminaire Lumens* for Unshielded Luminaires at one entry only	Not allowed	420 lumens	630 lumens	630 lumens	630 lumens
Row 2 Maximum Allowed Luminaire Lumens* for each Fully Shielded Luminaire	630 lumens	1,260 lumens	1,260 lumens	1,260 lumens	1,260 lumens
Row 3 Maximum Allowed Luminaire Lumens* for each Unshielded Luminaire excluding main entry	Not allowed	315 lumens	315 lumens	315 lumens	315 lumens
Row 4 Maximum Allowed Luminaire Lumens* for each Landscape Lighting	Not allowed	Not allowed	1,050 lumens	2,100 lumens	2,100 lumens
Row 5 Maximum Allowed Luminaire Lumens* for each Shielded Directional Flood Lighting	Not allowed	Not allowed	1,260 lumens	2,100 lumens	2,100 lumens
Row 6 Maximum Allowed Luminaire Lumens* for each Low Voltage Landscape Lighting	Not allowed	Not allowed	525 lumens	525 lumens	525 lumens

*** Luminaire lumens equals Initial Lamp Lumens for a lamp, multiplied by the number of lamps in the luminaire**

b. Exceptions to this standard include the following: one partly shielded or unshielded luminaire at the main entry, not exceeding the allowed lumen output in Table G, column LZ2 and row 1; any other partly shielded or unshielded luminaires not exceeding the allowed lumen output in Table G, column LZ2 and row 3; low voltage landscape lighting aimed away from adjacent properties and not exceeding the allowed lumen output in Table G row; shielded directional flood lighting aimed so that direct glare is not visible from adjacent properties and not exceeding the allowed lumen output in Table G, column LZ2 and row 5; open flame gas lamps; Lighting installed with a vacancy sensor, where the sensor extinguishes the lights no more than fifteen (15) minutes after the area is vacated; and, lighting within the public right-of-way or easement for the principal purpose of illuminating streets or roads.

16.44.020 Wireless communications facilities.

A. Purpose. The purpose of this section is to assure that wireless communication facilities are located, designed, installed, maintained and removed in a manner that provides for the effective provision of wireless communications within the City, while protecting and promoting the health, safety, and welfare of the City and its residents by:

1. Requiring the collocation, to the greatest extent possible, of new wireless communication facilities on existing facilities in order to minimize the number of support towers and related equipment;

2. Carefully considering the topography, natural features, and adopted overlay zones in selecting potential wireless communication facility sites;

3. Encouraging the use of existing structures, including, but not limited to, freestanding structures such as light or utility poles and water towers, instead of constructing new support towers;

4. Encouraging the location of new support towers and related equipment in nonresidential zones;

5. Limiting new structures and regulating the enlargement or expansion of existing structures in the right-of-way for the purpose of providing wireless communication facilities; and

6. Providing wireless communication services using facilities with minimal visual impact.

B. Excluded Facilities. The following facilities are exempt from the requirements of this section:

1. Siting of dish antennas solely for the benefit of persons residing on a property.

2. Amateur or “ham” radios and associated equipment.

3. Public safety communication facilities.

4. “Utility facilities” as defined in Section 16.12.030.

5. “Small wireless facilities” placed in the public right-of-way as defined and outlined in Chapter 12.06.

6. Maintenance of existing wireless communication facilities, as defined in this section.

C. General Provisions: Siting Priority, Land Use Districts, Collocation Requirements.

1. Siting Priority. Except as otherwise provided in subsection (C)(3)of this section, a wireless communication facility shall be sited according to the following priority, by descending order of preference:

a. First priority: collocation of an antenna or antenna array, including small wireless facilities, on an existing support tower, support structure, or utility structure;

b. Second priority: collocation of an antenna or antenna array, including small wireless facilities, on a replacement structure;

c. Third priority: substantial change in the physical dimensions of a support tower or replacement with a support tower that represents a substantial change in the physical dimensions of the original support tower;

d. Fourth priority: construction of a new support tower.

2. Land Use Districts.

a. Wireless communication facilities are allowed subject to the provisions of this section, the applicable requirements in each land use district, and subject to the following additional limitations:

Zones	Collocation with No Substantial Change and Small Wireless Facilities (located outside of the public right-of-way)	Other New Facility or Substantial Change
Residential	Permitted	Collocation with substantial change permitted as a conditional use subject to the development and design standards. New support tower permitted as a conditional use subject to the requirements of Section 16.44.020.D and the development and design standards of this section.
Steep Slopes and Natural Resources Overlay	Small wireless facilities permitted	Prohibited.
Institutional & Public Use	Permitted	Permitted, subject to the development and design standards of this section.
Commercial	Permitted	Permitted, subject to the development and design standards of this section.
Industrial	Permitted	Permitted, subject to the development and design standards of this section[1].
Future Urban – 10 acres	Permitted	Permitted as a conditional use subject to the development and design standards of this section.

[1] WCF are permitted outright in the industrial districts, with a height maximum of 200 feet.

b. Small wireless facilities are permitted in all zones within and/or outside of the public right-of-way, per the size requirements found within Section 16.12.130 (Definitions), above. Small wireless facilities located within the public right-of-way are further subject to Chapter 12.06 (Small Wireless Facilities) of this code.

c. The siting of new speculation support towers is prohibited in all zones.

d. All wireless communication facilities, except for small cell facilities not proposed on a new support tower or support tower system, located in the right-of-way shall be attached to existing utility structures or replacement structures.

e. Modifications are permitted in all zones, provided the modification does not result in a substantial change in the physical dimensions of the existing support tower or base station.

3. Collocation Required.

a. Except for a small cell facility or a new support tower or structure proposed in an industrial district, a wireless communication facility located outside the right-of-way shall be collocated, unless the applicant demonstrates that:

i. No existing support structures or support towers which meet the applicant's coverage, capacity and engineering requirements are located within the identified geographic area;

ii. Existing support towers, support structures, utility structures or replacement structures are not of sufficient height to provide the identified service within the geographic area;

iii. Collocation would interfere with other wireless communication facilities located on an existing support structure or support tower or would jeopardize the physical integrity of the facility upon which collocation would be made;

iv. Consent cannot be obtained for the collocation on an existing support structure or support tower despite the applicant's reasonable efforts to obtain such consent; or

v. It is not feasible from an engineering or structural standpoint to achieve collocation on an available existing support structure or support tower either due to structural limitations or because the needed auxiliary support equipment cannot be accommodated at the site.

b. All wireless communication service providers shall cooperate with other providers to achieve collocation of facilities and all new support structures and support towers shall be designed so as to not preclude collocation provided collocation can be accommodated in a manner consistent with the applicable design and development standards.

c. In the event collocation is represented to be infeasible, the City may retain a technical expert in the field of telecommunications engineering to evaluate whether collocation at the site is feasible.

d. A wireless communication service provider shall exercise good faith in attempting to achieve collocation with other providers and sharing antenna sites, provided that such shared use does not technically impair its ability to provide wireless communication service. Such good faith shall include sharing of technical information to evaluate the feasibility of collocation. The City may deny a permit application for a wireless communication facility if it determines that the applicant has not made a good faith effort to collocate on an existing support structure or support tower.

4. Collocation/Modification Standards.

a. All collocations and modifications shall be designed in such a way as to be visually compatible with the structures on which they are placed. If the existing support structure incorporates stealth technologies or camouflage in its design, collocated and modified facilities shall be similarly designed.

b. Except for small cell facilities, auxiliary support equipment shall be located within the existing enclosure and shall not result in any material exterior changes to the enclosure.

c. Collocations and modifications to existing support structures, support towers or base stations shall meet all applicable building code requirements. The applicant shall demonstrate to the satisfaction of the Building Official that the collocation or modification will not adversely affect the structural integrity of the support structure, support tower or base station.

d. A collocation or modification proposed for a building listed in the Happy Valley Register of Historic Structures shall be designed to incorporate or enhance the existing architectural and design elements of the building.

D. Permit Required—Siting Limitations—Interference—Abandonment.

1. Except as otherwise provided in this section, a new wireless communication facility shall not be sited within the City unless a permit is obtained consistent with this section and the applicable requirements of this Code.

2. New support towers are permitted as conditional uses in all residential land use districts if, in addition to demonstrating compliance with the conditional use, development and design standards, the applicant also demonstrates compliance with the collocation requirements in subsection C.3.a and the following conditions exist:

a. The proposed facility is necessary to satisfy the applicant's coverage, capacity and/or engineering requirements within the identified geographic area and the facility is the least intrusive means to meet these requirements, including documentation from a radio frequency (RF) engineer or a licensed civil engineer regarding the nature and necessity of the coverage, capacity and/or engineering requirements;

b. The proposed facility must be sited in a residential zone to satisfy the applicant's coverage, capacity and/or engineering requirements;

c. The characteristics of the site (size, shape, location, topography, and location of improvements and natural features) are suitable for the proposed facility;

d. The proposed facility will not substantially change the character of the surrounding residential area in a way which limits or precludes use of the surrounding properties consistent with the provisions of the residential zone;

e. The proposed facility is designed to minimize the negative impacts on the surrounding properties and uses by utilizing existing site characteristics, including but not limited to the site's size, shape, location, topography, improvements, and natural features, as well the incorporation of camouflage and/or stealth technology. Negative impacts are minimized if there is:

i. A decrease in negative visual impacts, including, but not limited to, visual clutter;

ii. Better preservation of views or view corridors; and

iii. A decrease in any other identifiable negative impacts to the surrounding area's primary uses.

3. A new support structure or support tower shall not be constructed, installed or erected within one thousand (1,000) feet of any other support structure or support tower that is owned, operated or occupied by the same wireless communication service provider. This separation standard does not apply to small cell facilities that work together in a small cell network. Exceptions to this standard may be permitted by the Planning Official or person designated by the Planning Official if, after reviewing evidence submitted by the service provider, the Planning Official or designee finds: (a) that closer spacing is required in order to provide adequate wireless communication service to the subject area; and (b) the service provider has exhausted all reasonable means of collocating on other existing structures located within the proposed service area. The Planning Official's or designee's decision may be appealed to the review body provided the appeal is filed with the Planning Official or designee within ten (10) calendar days of the decision. The appeal shall include the appropriate fees, as set by the City Council by resolution.

4. A support structure or support tower that has not had an antenna or antenna array mounted on it for a period of one hundred eighty (180) successive days, or if the antenna or antenna array mounted thereon are not operated for a period of one hundred eighty (180) successive days, shall be considered abandoned and the owner shall remove the structure or tower and any accompanying auxiliary support equipment within ninety (90) days from the date of written notice from the City. During the ninety (90) days, the owner may apply, and upon a showing of good cause, may be granted an extension of time on such terms as the Planning Official or designee shall determine. If the structure and auxiliary support equipment are not removed, the City may declare the abandoned facility to be a nuisance and seek enforcement pursuant to the Happy Valley Municipal Code and/or may seek and obtain a court order directing the structure or tower to be removed and placing a lien on the real property upon which the structure(s) is located in an amount equal to the cost of removal.

E. Application Submittal Requirements. In addition to the submittal requirements for the applicable approval type in Chapter 16.61, an application for a new wireless communication facility shall include the following:

1. Collocation/Modification/Small Cell Facility Installation Application.

a. A site plan that includes a description of the proposed new facility or modification, the design and dimensions, together with elevations showing all components of the existing support structure or support tower and its connection to utilities;

b. Documentation that the proposed facility meets the radio frequency emissions requirements of the Federal Communications Commission;

c. Documentation that any auxiliary support equipment will not emanate noise at levels that exceed City standards, or designs showing how the sound will be effectively modified to meet those standards by means of baffling, barriers, or other suitable means;

d. An engineer's certification that the proposed support structure or support tower will safely handle the load created by the collocation, modification or attachment and comply with American National Standards Institute (ANSI) and other industry safety and structural codes and standards.

2. Application for a new Wireless Communication Facility, Other Than a Collocated/Modified/Small Cell Facility Subject to Subsection E.1. In addition to the submittal requirements listed in subsection E.1, an application for a new wireless communication facility or modification shall include the following:

a. An engineer's certification that the proposed support structure or support tower will safely handle the load created by the new facilities and future collocation facilities, and complies with American National Standards Institute (ANSI) and other industry safety and structural codes and standards.

b. For new support towers, documentation from a radio frequency (RF) engineer or a licensed civil engineer that the necessary service cannot be provided by collocation on, or modification to, an existing support tower or support structure or utility structure, or by attachment on a replacement structure for one or more of the following reasons:

i. No existing support structures, or utility structures are located within the geographic area where service will be provided;

ii. There are no existing support towers, support structures or towers that meet the applicant's coverage, capacity and/or engineering requirements within the identified geographic area;

iii Collocation would interfere with other wireless communication facilities location on an existing support structure or tower, or would jeopardize the physical integrity of the facility upon which collocation would occur;

iv. Consent cannot be obtained for the collocation on an existing support structure or tower despite the applicant's reasonable efforts to obtain such consent; or

v. It is not feasible for engineering or structural reasons to collocate on an available existing support structure or tower either due to structural limitations or because the needed auxiliary support equipment cannot be accommodated at the site.

c. An alternatives analysis for new support towers demonstrating compliance with the siting priorities of subsection C.1; provided, however, that an applicant is not required to consider small cell facilities as an alternative to a proposed new support tower.

d. The number and type of antennas that the support tower is designed to accommodate.

e. A signed statement of compliance from the owner of the wireless communication facility that the owner will allow timely collocation by other users, provided all safety, structural, technological, and monetary requirements are met.

f. A visual study containing, at a minimum, color simulations showing the appearance of the proposed support tower, antennas, and auxiliary equipment from at least three viewpoints within reasonable proximity of the site. The viewpoints shall be chosen by the applicant, but shall include representative views from residential buildings, historic resources, or historic districts located within two hundred fifty (250) feet of the proposed site. If the support tower must comply with the design standards applicable to historic structures, the graphic simulation shall include the proposed design.

g. If applicable due to the nature of the proposal, coverage maps showing any gap in the service provider's coverage, capacity or technologies and the minimum height or configuration of the facility needed to fill the gap.

3. Application for New Support Tower in Residential Zones. In addition to the submittal requirements of subsections E.1 and E.2, an application for a new support tower in any residential zone shall also provide documentation that:

a. The proposed facility is necessary to satisfy the applicant's coverage, capacity and/or engineering requirements within the identified geographic area and the facility is the least intrusive means to meet these requirements, including documentation from a radio frequency (RF) engineer or a licensed civil engineer regarding the nature and necessity of the coverage, capacity and/or engineering requirements;

b. The proposed facility must be sited in a residential or future urban zone to satisfy the applicant's coverage, capacity and/or engineering requirements;.

c. The characteristics of the site (size, shape, location, topography, and location of improvements and natural features) are suitable for the proposed facility;

d. The proposed facility will not substantially change the character of the surrounding residential area in a way which limits or precludes use of the surrounding properties consistent with the provisions of the residential zone;

e. The proposed facility is designed to minimize the negative impacts on the surrounding properties and uses by utilizing existing site characteristics, including but not limited to the site's size, shape, location, topography, improvements, and natural features, as well the incorporation of camouflage and/or stealth technology. Negative impacts are minimized if there is:

i. A decrease in negative visual impacts, including, but not limited to, visual clutter,

ii. Better preservation of views or view corridors, and

iii. A decrease in any other identifiable negative impacts to the surrounding area's primary uses.

F. Procedures.

1. Applications for collocation on an existing support structure, support tower, base station or utility structure, or modification that will not result in a substantial change in the physical dimension of the existing facility shall be reviewed pursuant to the Type I Administrative procedure provided at Section 16.61.020.

2. An application for small cell facilities shall be reviewed pursuant to the Type I Administrative procedure provided in Section 16.61.020. At the applicant's discretion, a consolidated application addressing all or part of a small cell network may be submitted for Type I review as an alternative to individual permitting for each small cell facility in a small cell network.

3. An application for a modification that will result in a substantial change in the physical dimension of the existing facility shall be reviewed pursuant to the Type II Administrative procedure provided at Section 16.61.030, unless the application is for a site in a residential or future urban zone.

4. An application to site a new wireless communication facility on a new support structure or support tower in zones other than residential or future urban zones shall be reviewed pursuant to the Type II Administrative procedure provided at Section 16.61.030.

5. Except as provided above in subsections F.1 and F.2, an application to site a new wireless communication facility on a new support structure or support tower in all residential or future urban zones shall be reviewed pursuant to the Type III Quasi-judicial procedure provided at Section 16.61.040.

6. The City shall issue a final decision on all applications consistent with the timing requirements of ORS 227.178 and applicable federal regulations.

G. Approval Criteria.

1. Collocated Facilities and Modifications.

a. A new wireless communication facility or modification to an existing facility that does not result in a substantial change in the physical dimension of the existing facility shall meet the applicable collocation requirements and standards of this section.

b. A new wireless communication facility or modification to an existing facility that would result in a substantial change in the physical dimension of the existing facility shall meet the applicable collocation requirements and standards of this section.

2. New Support Structure or Tower.

a. A new support structure or support tower is subject to all provisions of this section.

b. In addition, a new support structure or support tower shall meet the following criteria:

i. The application as approved will minimize and/or mitigate reasonably likely adverse impacts of the use on the adjacent properties, surrounding neighborhood and neighborhood character. In order to mitigate and minimize the impact of the support structure or tower, the City may impose conditions relating to the size, design, operating conditions, or other features of the proposal, including those which may be applicable to conditional uses under this Code; and

ii. The application demonstrates compliance with the collocation requirements in subsection C.3.a.

H. Development and Design Standards.

1. Setback Requirements.

a. New support structures and support towers and auxiliary support equipment shelters must meet the applicable setback requirements of the zone in which they are proposed to be sited, except as required in subsection b or c below.

b. A new support structure or support tower proposed on property that is adjacent to a residential zone or an existing residential structure must be set back from the relevant property line or structure by a distance equal to the height of the proposed support structure or support tower.

c. The review body may require greater setbacks for a proposed new support structure or support tower to assure that the proposed facility complies with the visual impact standards of this section or to address identified safety concerns.

2. Height Limitations.

a. A new support structure or support tower located in an institutional, commercial or industrial zone shall meet the applicable height limitation for the zone in which it will be

located, provided that the facility may exceed the height limit in the zone by demonstration by the applicant that additional height is necessary to meet the applicant's coverage, capacity and/or engineering requirements for an identified technology or service. However, a new support structure or support tower may not exceed two hundred (200) feet in an Industrial zone or one hundred fifty (150) feet in any other zone. A "speculative height" support structure or support tower designed to accommodate unknown future users are not allowed in any zone.

b. A new support structure or support tower proposed in a residential or future urban zone shall meet the otherwise applicable height standards in the zone, provided that the facility may exceed the height limit in the zone by demonstrating that additional height is necessary to meet the applicant's coverage, capacity and/or engineering requirements for an identified technology or service. A new support structure or support tower in a residential or future urban zone must be constructed using stealth technology.

c. An antenna attached to an existing support structure, including utility structures and replacement utility structures, may add twenty (20) feet to the overall height of the existing structure regardless of the height standard of the underlying zone.

3. Development Standards.

a. The area around the base of support towers (including any auxiliary support equipment) must be fenced, with a sight-obscuring fence a minimum of six feet in height. The fenced area is to be surrounded by evergreen shrubs (or a similar type of evergreen landscaping), placed within a landscaped strip a minimum of ten (10) feet in width. In the event that placement of a proposed support tower and/or auxiliary support equipment is located in a unique area within a subject site that would not benefit from the addition of landscaped screening, the Planning Official or designee may require that the applicant submit a landscape plan illustrating the addition of a proportional landscape area that will enhance the subject site either at a building perimeter, parking lot, or street frontage, adjacent to or within the subject site. Although barbed wire is permitted, no concertina (razor) wire shall be installed atop any fence or barrier.

b. All support structures, support towers, antennas, and antenna arrays and associated facilities shall be finished in a non-reflective neutral color. For a new support structure or tower, the Review body may require camouflaging or stealth technology.

c. Construction and installation of a new support structure or a new support tower is subject to all applicable building code requirements.

d. Antennas, antenna arrays, support structures and support towers shall not be artificially lighted except as required by the Federal Aviation Administration or other governmental agency.

e. Signs, symbols, flags, banners or other such devices or things may not be attached to, painted or inscribed on a wireless communication facility, except for signs with standard public safety warnings, contact information or similar signage.

f. The applicant shall maintain and, if necessary, improve, the existing access to City standards. If there is no existing access, the applicant shall provide a paved access driveway a minimum of ten (10) feet wide to accommodate service vehicles.

I. Wireless Communication Facility Adjustment.

1. Applicability. Except as otherwise provided in this section, a wireless communication facility shall not be used or developed contrary to any applicable development standard unless an adjustment has been granted pursuant to this section. These provisions apply exclusively to wireless communication facilities and are in lieu of the generally applicable variance provisions in Chapter 16.71.

2. Procedure Type. A wireless communications facility adjustment is a Type II procedure.

3. Submittal Requirements. In addition to the general submittal requirements for a Type II application, an application for a wireless communication facility adjustment shall include:

a. A written statement demonstrating how the adjustment would meet the criteria.

b. A site plan that includes:

i. Description of the proposed facility's design and dimensions, as it would appear with and without the adjustment.

ii. Elevations showing all components of the wireless communication facility as it would appear with and without the adjustment.

iii. Color simulations of the wireless communication facility after construction demonstrating compatibility with the vicinity, as it would appear with and without the adjustment.

4. Criteria. An application for a wireless communication facility adjustment may be granted if the following criteria are met:

a. The adjustment is consistent with the purpose of the development standard for which the adjustment is sought.

b. Based on a visual analysis, the design minimizes the visual impacts to residential zones through mitigating measures, including, but not limited to, building heights, bulk, color, and landscaping.

c. The applicant demonstrates the existence of either of the following:

i. Gap in Service.

(A) A gap in the coverage, capacity, or technologies of the service network exists;

(B) The gap can only be filled through an adjustment in one or more of the standards in this section; and

(C) The adjustment is narrowly tailored to fill the service gap such that the wireless communication facility conforms to this section's standards to the greatest extent possible.

5. Minimization of Impacts. The adjustment must minimize or eliminate negative impacts to surrounding properties and uses through by utilizing existing site characteristics including, but not limited to, the site's size, shape, location, topography, improvements, and natural features. Negative impacts are minimized or eliminated if there is:

a. A decrease in negative visual impacts, including, but not limited to, visual clutter;

b. Better preservation of views or view corridors; or

c. A decrease in any other identifiable negative impacts to the surrounding area's primary uses.

J. Special Provisions.

1. Temporary Facilities. In order to facilitate continuity of services during maintenance or repair of existing facilities or prior to completion of construction of a new facility, temporary wireless communication facilities are allowed through administrative review. Temporary facilities authorized under this subsection may not be used in excess of ninety (90) days, may not have a permanent foundation and shall be removed within thirty (30) days after the permanent facility is completed. A permit for a temporary facility under this subsection may not be renewed or extended, nor may a new permit be issued for the same facility within the succeeding six months after the expiration of the initial permit.

2. Third-Party Review and Associated Fees. The City may engage a third-party expert to review evidence presented by an applicant under this section to demonstrate compliance with this section as to the infeasibility of collocation or the need to fill a service gap. The City Council may establish reasonable fees in amounts sufficient to recover all of the City's costs to retain such consultants.

3. Issuance of Building Permit. No building permit shall be issued for the construction of a wireless communication facility until the application for the specific type of siting has been approved, including any local appeal.

4. Exception for Public Utilities. Nothing in this section shall be deemed to prohibit a public utility, as defined in ORS 757.005 from installing or constructing a new utility structure, or enlarging, expanding, or reconstructing an existing utility structure in right-of-way, if the installation, construction, enlargement, expansion, or reconstruction of the utility structure would otherwise be permitted under law and the utility can demonstrate that the need for the new utility structure is not related to or created by a wireless communication facility.

5. Relocation.

a. The City may require a wireless communication facility located in the right-of-way to be relocated when the public convenience requires the relocation, and the expense thereof shall be paid solely by the owner of the wireless communication facility.

b. Prior to requiring relocation, the City will provide the owner with notice substantially similar to that given to franchisees, licensees, or grantees.

c. Should an owner fail to remove or relocate the wireless communication facility or facilities by the date stated in the notice, the City may cause removal or relocation of the wireless communication facility or facilities, and the expense thereof shall be paid by the owner, including all enforcement and other costs incurred by the City due to the owner's failure to remove or relocate the wireless communication facility or facilities.

d. If an owner must relocate its wireless communication facility or facilities in the right-of-way as the result of a request by the City, the City will make a reasonable effort to provide the owner with an alternate location for the relocated facility.

6. Measurements. Unless otherwise specified in this section, all references to existing, allowed or modified height in this section are measured from the original grade at the base of the wireless communications facility as originally approved to the highest point on the wireless

communication facility, including all antennas approved prior to February 22, 2012, and excluding any lightning rods.

16.44.030 Model homes.

A. Purpose. This section permits construction of model homes in conjunction with preliminary approval of a residential subdivision pursuant to Sections 16.63.050 through 16.63.070 of this title.

B. Process. A model home may be approved by the review body concurrently with an application for preliminary approval of a residential subdivision or subsequent to preliminary approval of a residential subdivision and prior to final plat approval. Model homes that are applied for subsequent to a preliminary subdivision approval shall be evaluated pursuant to a Type I procedure.

C. Approval Criteria. A model home may be constructed and occupied only for the purpose set forth in this section and consistent with its definitions prior to final plat recording and subject to the following approval criteria:

1. The lot and home foundation for the proposed model home must be surveyed by a person who is registered in Oregon as a land surveyor and holds a valid certificate consistent with State law. The surveys must establish the location of the model home structure consistent with the dimensional requirements of the underlying development district pursuant to Articles 16.2 and 16.3 or as otherwise provided in this title.

2. The proposed model home shall be in compliance with all applicable dimensional requirements including, but not limited to, maximum height, maximum lot coverage, minimum setbacks and minimum lot size.

3. Adequate parking shall be available to serve the model home site. No model home may be occupied where on-street parking is not available on a public right-of-way or private street that is immediately adjacent to the lot. Where adjacent on-street parking is inadequate, additional temporary off-street parking may be required. Temporary off-street parking must be removed and adequate landscaping installed consistent with this title prior to any sale of the model home or lot. At least four parking spaces shall be provided for each model home.

4. Adequate emergency vehicle access shall be provided to each model home lot, as approved by the City Public Works Director.

5. Adequate water supply for fire fighting, as approved by the City Public Works Director, shall be provided to each model home lot prior to installation of combustible materials.

6. All required public and private utilities within the public right-of-way or private street shall be installed prior to occupancy of the model home. All utility installation must be inspected and approved by the City consistent with this title. This provision is in addition to any other requirements for public utility improvements as may be provided in this title or other applicable law.

7. The number of model homes in a residential subdivision may be allowed as follows:

   a. Between one and fifty (50) residential lots, two model homes;

   b. Between fifty-one (51) and one hundred (100) residential lots, three model homes;

   c. Between one hundred one (101) and one hundred ninety-nine (199) residential lots, six model homes;

d. Two hundred (200) or more residential lots, eight model homes.

8. If more than one model home is proposed, the lots on which the model homes are to be located shall be contiguous to one another and within the first phase of development.

9. No variances under Chapter 16.71 shall be permitted to accommodate the model home.

D. Remedial Action. In the event the City determines the model home has encroached on a property line or violated any applicable standards, the following steps shall be taken to correct the violation:

1. The City shall provide notice to the applicant identifying the violation and requesting correction of the violation within sixty (60) days of the date of the notice. The City may require more or less time on a case-by-case basis. The time required to cure the encroachment does not extend or modify the timeline for submitting a final plat or the termination of the model home approval as set forth in Section 16.44.030.

2. The applicant shall correct the violation within the time provided in the notice unless otherwise agreed to by the City in writing.

3. In the event the applicant fails to correct the violation to the satisfaction of the City within the time provided in the notice, the City may at its discretion use the security provided pursuant to subsection (D)(1) above, for purposes of correcting the violation.

4. The City will not accept an application for a final plat until such time as the violation is corrected. In the event an application is already filed before the violation is detected, the City shall deny the final plat as not consistent with the preliminary approval unless the violation is corrected.

E. Termination of Model Home Approval. The model home use shall be discontinued no later than two years from the date of the recording of the final plat of the entire subdivision or, where there is phasing, the first phase of the subdivision. Approval may be extended for a maximum of one additional year by the Planning Official or designee with the concurrence of the building official and public works director. (Ord. 501 § 1, 2016; Ord. 433 § 1, 2013; Ord. 389 § 1(Exh. A), 2009)

16.44.040 Manufactured home standards.

Minimum standards for a manufactured home on an individual lot as a single-family dwelling:

A. The manufactured home shall be multisectional (double-wide or wider) and enclose a space of not less than one thousand (1,000) square feet (exclusive of the garage) of living space i.e., total of exterior dimensions of all habitable rooms, as determined by measurement of the length and width of the manufactured home.

B. Manufactured homes shall be allowed in any residential zone of the City that allows single-family dwellings.

C. The manufactured home shall be placed on a poured-in-place, concrete backfilled foundation and enclosed at the perimeter such that the manufactured home is located not more than twelve (12) inches above grade.

D. The manufactured home shall have a pitched roof which shall have a minimum slope of two and one-half to three feet in height for each twelve (12) feet in width.

E. The manufactured home shall have exterior siding and roofing which in color, material and appearance are similar to the exterior siding and roofing material commonly used on residential dwellings used within the community or which is comparable to the predominant materials used on surrounding dwellings as determined by the City as the local permit approval authority.

F. The manufactured home shall be certified by the manufacturer to have an exterior thermal envelope meeting performance standards which reduce heat loss to levels equivalent to the performance standards required of single-family dwellings constructed under the State Building Code as defined in ORS 455.010.

G. The manufactured home shall have a garage constructed with exterior materials matching the manufactured home's exterior material. Carports are not allowed because garages are consistent with the predominant construction of immediately surrounding dwellings in all residential zoning districts in the City.

H. A manufactured home and the lot upon which it is to be sited are subject to any development standard, architectural requirement and minimum size requirement to which conventional single-family residential dwellings on the same lot would be subject which also includes specific design, landscaping, and exterior siding and roofing requirements.

I. A manufactured home shall not be sited in any area designated as an historic district or residential land immediately adjacent to an historic landmark.

J. All manufactured homes (except for manufactured homes located within a manufactured homes subdivision or in mobile home parks) shall utilize at least two of the following design features:

1. Dormers;
2. Recessed entries;
3. Cupolas;
4. Bay or bow windows;
5. Attached garage;
6. Window shutters;
7. Off-sets on building face or roof (minimum twelve (12) inches);
8. Gables;
9. Covered porch entry;
10. Pillars or posts;
11. Eaves (minimum six inches);
12. Tile or shake roof;
13. Horizontal lap siding;
14. A roof with a pitch greater than nominal 3-12.

K. If the manufactured home is removed from its foundation, the owner of the property shall remove the foundation and all accessory structures and additions to the manufactured home, and permanently disconnect sewer, water and other utilities unless otherwise authorized by the City. In the event the owner fails to accomplish such work within thirty (30) days from the date on which the manufactured home is moved from its foundation, the City may perform such work and place a lien

against the property for the cost of such work. This condition shall not apply in the event that the manufactured home is replaced on the original foundation, on the original foundation as modified, or by another approved manufactured home within thirty (30) days of the original manufactured home's removal.

16.44.045 Mobile home parks.

A. The standards of this section supersede the standards of Section 16.64.040, when applicable in regard to the underlying comprehensive plan designation/zoning district, of the LDC in reviewing applications for mobile home parks. The standards of this section are applicable to proposed new mobile home parks and mobile home park expansions, including the provision of all Level 1 services, per the requirements of this title.

B. Density and Setbacks. The maximum density allowed in a mobile home park shall not exceed that of the underlying zone. A minimum ten (10) feet distance shall be maintained between mobile homes.

C. Landscaping and Screening. Except as required for vision clearance, a landscaped area of at least twenty (20) feet in depth which attains a height of at least five feet within two growing seasons is required along the perimeter of the park. A fence may be provided in addition to the required perimeter landscaping, its placement to be approved by the review body. In addition, all open spaces not occupied by structures, mobile homes or paved areas, shall be planted or otherwise landscaped and shall be properly maintained.

D. Roadways and Circulation. All private roads in mobile home parks shall be a minimum of twenty (20) feet in width if parking is prohibited, or thirty (30) feet if on-street parking is allowed. All private roads must meet City standards for construction and must be paved and named. An internal walkway system must connect each mobile home with the street system and recreation facilities. Circulation plans for mobile home parks must be approved by the fire district.

E. Fire Hydrants. An adequate number of fire hydrants shall be provided within the mobile home park, so that no mobile home space or structure within the park shall be more than four hundred (400) feet measured along a roadway from a hydrant.

F. Street Lights. Standard street lights shall conform to the standards of the lighting district.

G. Numbering of Spaces. Each mobile home space shall be legibly numbered so that it may be easily found, in a manner to be approved by emergency services. A site plan showing the general layout of the park, the location of each numbered space and all roadways shall be furnished to the fire district and to the City.

H. Recreational Vehicle Parking Area. For proposed new mobile home parks and mobile home park expansions, each mobile home park shall have a separate paved area designated for the parking and storage of recreational vehicles, campers, boats, trailers, etc. Such area shall be enclosed by a sight-obscuring fence. There shall be at least one recreational vehicle parking space for each six mobile home spaces in the mobile home park.

I. Recreation Area. For proposed new mobile home parks and mobile home park expansions accommodating children under fourteen (14) years of age, a minimum of twenty-five hundred (2,500) square feet, or one hundred (100) square feet per mobile home space, whichever is greater, shall be provided and maintained by the mobile home park owner for a recreation area. A separate

play area is not required if an existing mobile home park can document that it was in existence before March 13, 1989, and rented spaces as an all adult park.

J. Accessory Structures. Other structures within the mobile home park for uses accessory to the park such as a service building, laundry area, recreational facilities, manager's office, etc., are permitted provided they do not draw trade from outside the park. All such accessory structures shall be located a minimum of twenty (20) feet from any mobile home and from other structures, roadways and property lines.

K. Parking. A minimum of one paved parking space per unit is required.

L. Patio. Each mobile home space shall have a patio or deck of concrete, brick, stone or wood at least one hundred twenty (120) square feet in size.

M. Utility Connections. Each mobile home shall be equipped with connections for running water, electricity and sanitary sewage disposal. All utility connections shall be located underground.

16.44.050 Accessory dwelling units.

A. Purpose. The purpose of this section is to establish appropriate locations, site development standards, and permit requirements to allow for the provision of accessory dwelling units (ADUs) within the City. ADUs, commonly referred to as "granny flats" or "mother-in-law apartments," are a well-established housing strategy that utilize an additional living unit in areas zoned for single-family use. By creating a self-contained unit with a separate entrance and kitchen from existing space in the primary dwelling; a combination of existing and newly created space; space in an existing accessory building; or, from the addition of a new accessory building, secondary living areas can be created in association with existing or new homes. Such living space can aid in the housing and dependent care of family members, provide rental income to offset the costs of home-ownership, and add to the supply of affordable housing options available to the citizens of Happy Valley.

B. Development Standards. In addition to the applicable standards of the underlying residential zone, ADUs shall comply with the following development standards:

1. An ADU shall meet all applicable health, fire safety and building codes, pursuant to the Oregon Residential Specialty Code.

2. ADUs shall be allowed only in conjunction with parcels containing one single-family dwelling. Only one ADU per parcel is permitted.

3. The ADU may be created by converting existing living area or adding floor area, or construction of a new structure that is either attached or detached. For example, conversion of space above a primary dwelling's detached garage would qualify as a detached ADU. However, no detached ADU structure may include a secondary garage (one garage for the primary structure and one for the ADU) separate from the primary dwelling, unless said secondary garage existed prior to the submittal of development plans for the ADU. In addition, the building height of the ADU may not exceed fifty (50) percent of the building height of the primary structure or twenty-six (26) feet, whichever is higher.

4. The maximum gross habitable floor area (GHFA) of an ADU involving the conversion of existing space within a primary dwelling such as a basement or addition shall not exceed fifty (50) percent of the GHFA of the primary residence on the lot. Construction of a new structure

that is attached by means of a breezeway or similar feature does not qualify as an attached structure. For a detached ADU, the GHFA shall not exceed fifty (50) percent of the GHFA of the primary residence on the lot, and shall not exceed a maximum of one thousand (1,000) square feet, whichever is less. The floor area of any garage in the primary dwelling shall not be included in the total calculation of GHFA.

5. Only one entrance shall be located on the front of the primary dwelling or any portion of the primary dwelling abutting a street, unless the dwelling contained additional entrances before the accessory residential unit was created.

6. In order to maintain an architectural character similar to the primary dwelling, the ADU shall have siding and roofing materials and exterior paint colors that generally match the siding and roofing materials, and exterior paint colors of the primary dwelling.

7. A minimum six-foot hedge or site-obscuring fence may be required by the Planning Official or designee to buffer a detached ADU from dwellings on adjacent lots, when buffering is necessary for the privacy and enjoyment of yard areas of adjacent properties.

16.44.055 Accessory uses and structures.

An accessory use shall comply with all requirements of a principal use, except as this title specifically allows to the contrary, and shall comply with the following limitations:

A. A fence, wall, retaining wall, or combination thereof may be located on real property, not within the right-of-way, subject to all of the following:

1. A fence or wall located behind the front of a building or more than thirty feet from the front property line, whichever is less may be up to eight feet in height.

2. A fence or wall located in front of a building or thirty feet from the front property line, whichever is less, may be up to four feet in height, unless within a sight visibility area and/or easement for sight distance.

3. Fences or decorative walls located within a sight visibility area and/or easement for sight distance may be up to two and one-half feet in height. Trees, shrubbery, berms, arbors, trellises and similar landscape features are permitted in all required yards provided that on corner lots no object or planting shall obscure vision between the vertical heights of two and one-half feet and ten feet, as measured from the adjoining curb elevation, for the triangular area which has sides extending from the corner of the property in either direction, the same distance as the front yard setback requirement for that district.

4. Retaining Walls. In any zoning district, property that abuts an existing residence or residential district, may have retaining walls up to eight feet (measured from the visible downslope face of the retaining wall). Regardless of the district or use, all retaining walls shall be terraced with a minimum visible distance between walls equal to the visible height of the downslope retaining wall. All retaining walls abutting other single-family residences or zoning districts shall provide solid vegetative screening along the entire linear face of the lowest retaining wall. Retaining walls necessary for public or private infrastructure such as streets, drive-aisles, parking lots, stormwater detention facilities, etc. are exempt from the height limitation. Fences or decorative walls may exist atop retaining walls and are measured independent of the height of the retaining wall.

5. Fence height restrictions do not apply to public utility fences, “deer fences” or similar fences constructed of “wire mesh,” baseball or softball backstops, or to chain link fences enclosing school and public playgrounds

B. A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales.

C. Accessory structures larger than two hundred (200) square feet in size and fourteen (14) feet in height, such as a separated garage, accessory storage structure, play structure, treehouse, workshop building, etc., may be constructed accessory to a primary dwelling. Accessory structures require conformance with the underlying development district setbacks, lot coverage and all other applicable development standards except for building height. Accessory structure building height, as measured by this title, shall not exceed fifty (50) percent of the height of the primary structure or twenty-six (26) feet, whichever is higher. Treehouse height shall be measured from the floor level. Treehouses of this size shall require submittal of an arborist’s report and structural engineering calculations demonstrating that the tree(s) and structure will support the load of the treehouse.

D. An uncovered swimming pool may be located within a required rear yard or side yard behind the rear building line provided it is no closer than five feet to the property line.

1. Any pool forty-eight (48) inches in height above grade level is to be considered its own fence if the following conditions are met:

a. The method of entering the pool is a removable ladder or stair that is moved a safe distance from said pool when the pool is not in use.

b. If a deck or walkway is constructed around aforesaid pool that is over thirty (30) inches above grade, this deck or walkway must be equipped with a guardrail with either vertical or horizontal members that will not permit passage of a nine-inch sphere. If no fence with self-closing and locking gates encloses the yards, one must be installed on the stair or ladder that serves as entry onto the deck or walkway. If more than one entry to deck or walkway is provided, all entries shall have self-closing and locking gates.

c. The pool must be set and maintained as pursuant to manufacturer’s instructions.

2. Any pool installed at ground level or below ground level shall be protected against accidental entry by a fence not less than forty-eight (48) inches nor more than eighty-four (84) inches in height with a self-closing, self-locking gate not less than forty-eight (48) inches from the edge of the pool.

a. The pool must be set and maintained as pursuant to manufacturer’s instructions;

b. Any pool less than forty-eight (48) inches in height shall be considered to be at ground level installation and treated as same for protective fencing; or

c. The pool and/or spa and hot tub must be covered by a power safety cover that complies with ASTM F 1346 as listed in Appendix G of the Oregon Residential Specialty Code.

E. An accessory building measuring no greater than two hundred (200) square feet in size and fourteen (14) feet in height may be located within a required rear yard or the required side yards behind the front building line of the primary structure. An accessory building component that extends from the foundation wall, including, but not limited to: eaves; fireplace chases; bay windows; and, similar accessory building components, may be located within a required rear yard or

the required side yards behind the front building line of the primary structure, provided that a minimum three-foot setback is maintained between the accessory building component and any pertinent rear or side property line. Covered porticos (commonly referred to as “outdoor rooms”), may be located within a required rear yard provided that a minimum ten (10) foot setback is maintained between the covered portico and the rear property line. Habitable floor area or accessory storage area shall not be considered an accessory building component.

F. A covered front porch that equals a minimum of twenty (20) percent of the lineal frontage of the front building line may be placed in front yard of a residence provided that no part of the porch (excluding eaves) is closer than fifteen (15) feet to a front property line. An unenclosed covered patio or a covered deck enclosed only by railings may be placed in the rear yard of a residence provided that no part is closer than ten (10) feet to a rear property line. An uncovered deck constructed thirty (30) inches or higher above grade may be located within the required rear yard or the required side yard behind the front building line provided that it may not be closer than three feet to a property line. An uncovered deck constructed lower than thirty (30) inches above grade may be built up to a property line.

G. Athletic Court or Facility. Athletic courts or facilities, typically associated with expansive single-family residences, take many forms, including those constructed for tennis, full-court basketball, volleyball, etc. Although a specific land use action is not associated with the review of sport courts, a building permit is required, which in turn requires signature by the Planning Official or designee, and shall be evaluated according to the following criteria:

1. Lighting Plan. The applicant shall submit a photometric lighting plan delineating the relationship between exterior lighting, the subject site, and surrounding residential properties within two hundred (200) feet.

2. Storm Water Management. The applicant shall be subject to the rules and requirements of Clackamas County Service District No. 1 (Water Environment Services).

3. Screening and Buffering. For athletic courts or facilities over two thousand (2,000) square feet in size, the applicant shall provide a minimum ten (10) foot wide landscaped buffer between the athletic court or facility and abutting residential properties. For all athletic courts or facilities, the applicant shall provide a landscape plan that illustrates planting materials, sizes, and overall design (which may include lawn), to include a minimum six-foot tall solid wood fence, cyclone fence with slats, or a solid vegetative screen on property lines surrounding the athletic court or facility that abut residential development.

16.44.060 Affordable housing.

A. Purpose. The purpose of this section is to offer incentives to developers for providing housing that is affordable to the types of households and qualifying residents identified in subsection B (Eligibility for Bonus and Incentives), below. The incentives include the ability to construct up to twenty-five (25) percent more residential dwelling units than normally allowed by the applicable Comprehensive Plan map/zoning map district, and other incentives provided by this section.

B. Eligibility for Bonus and Incentives. In order to be eligible for a density bonus and other incentives provided by this section, a proposed residential project shall:

1. Consist of five or more dwelling units;

2. Be designed and constructed so that at least:

a. Twenty (20) percent of the total number of proposed dwelling units are for lower income households, as defined by HUD;

b. Ten (10) percent of the total number of proposed dwelling units are for very low income households, as defined by HUD; or

c. Fifty (50) percent of the total number of proposed dwelling units are for qualifying residents (senior citizens of any income level) as determined by HUD; and

d. Comply with all applicable provisions of this title.

C. Types of Bonuses and Incentives Allowed. A residential project that satisfies all applicable provisions of this chapter shall be entitled to the following density bonus and other incentives. If a density bonus and/or other incentives cannot be accommodated on a parcel due to strict compliance with the provisions of this Development Code, the review body is authorized to waive or modify development standards as necessary to accommodate all bonus units and other incentives to which the development is entitled. The housing developer shall show that the waiver or modification is necessary to make the housing units economically feasible.

1. Density Bonus. The density bonus allowed by this section is a permitted use within the following planned mixed use (PMU) districts: Mixed-Use Residential Multifamily Dwellings (MUR-M); Mixed-Use Residential Mixed-Use Buildings (MUR-X); Mixed-Use Commercial (MUC); Mixed-Use Employment (MUE); and the Mixed-Use Employment Neighborhood Commercial Subdistrict (MUE-NC). In addition, the density bonus is permitted use within the Single-Family Attached Residential District (SFA); General Commercial (GC) and Neighborhood Commercial (NC) zones; and, shall consist of either:

a. At least a twenty-five (25) percent increase in the number of dwelling units normally allowed by the zoning district applicable to the parcel as of the date of the project land use permit application;

b. Other incentives of equivalent financial value based upon the land cost for each dwelling unit; or

c. Any combination of an increase in the number of dwelling units normally allowed by the zoning district and other incentives of financial value equivalent to a twenty-five (25) percent increase in the number of dwelling units.

If a developer agrees to construct both twenty-five (25) percent of the total units for persons and families of low income and ten (10) percent of the total units for very low income households, the developer is entitled to only one density bonus, although the City may, at its discretion, grant more than one density bonus. If a developer agrees to construct less than the percentages of low or very low income housing indicated in subsection (C)(1) above, the City may grant density bonuses or provide other incentives which vary from those prescribed in subsection (C)(1).

2. Other Incentives. A qualifying residential project shall be entitled to at least one of the following concessions or incentives:

a. A reduction in the parcel development standards of this Development Code (e.g., coverage, setback, zero lot line and/or reduced parcel sizes, architectural design requirements, public works improvements, and/or parking requirements);

b. Approval of a mixed-use component in conjunction with the housing project if nonresidential land uses will reduce the cost of the housing project, and the nonresidential land uses are compatible with the housing project and surrounding existing and planned land uses;

c. Other regulatory incentives or concessions proposed by the developer or the City that will result in identifiable cost reductions;

d. A higher density bonus consisting of up to a thirty-five (35) percent increase in the number of dwelling units normally allowed by the zoning district applicable to the parcel or up to a fifty (50) percent increase if the project site is located within one-quarter mile of a commer-cial center with a grocery store/drug store anchor and within one-quarter mile of a transit route; and

e. A waiver or reduction of planning application fees, building permit application fees, Transportation SDCs and/or Parks SDCs.

D. Continued Availability. The land use permit application for the residential project shall include the procedures proposed by the developer to maintain the continued affordability of the density bonus units in the following manner:

1. Projects with City Funding—Thirty (30) Years. Projects receiving a direct financial contribution or other financial incentives from the City, or a density bonus and at least one other concession or incentive as provided by Section 16.45.060 above, shall maintain the availability of the lower income density bonus units for a minimum of thirty (30) years, and shall enter into a development agreement with the City of Happy Valley stipulating said retention. Lower income density bonus units shall mean those affordable housing units for which a density bonus or other financial incentive was granted for the project; or

2. Projects Receiving Density Bonus Only—Ten (10) Years. Projects that receive a density bonus as the only incentive from the City shall maintain the availability of lower income density bonus units for a minimum of ten (10) years.

E. Location of Bonus Units. The location of density bonus units within the qualifying residential project may be at the discretion of the developer. However, the inclusionary units shall be reasonably dispersed throughout the development where feasible, shall contain on average the same number of bedrooms as the non-inclusionary units in the development, and shall be compatible with the design or use of the remaining units in terms of appearance, materials, and finish quality.

F. Processing of Bonus and Incentive Requests. Proposed bonus and incentive requests shall be included as part of the land use application required for the residential project by this title, including the application of all relevant criteria, particularly for road, sewer and water capacity.

1. Findings for Approval. In addition to the findings required for the approval of the pertinent land use applications, the approval of the bonuses and incentives by the review body shall also require the following special findings:

a. In the event that the City grants a density bonus, the project would not be a hazard or nuisance to the City at large or establish a use or development inconsistent with the goals and policies of the Comprehensive Plan;

b. In the event that the City grants a density bonus, the number of dwellings approved by the land use permit can be accommodated by existing and planned infrastructure capacities;

c. Adequate evidence exists to indicate that the development of the property in compliance with the permit would result in the provision of affordable housing in a manner consistent with the purpose and intent of this section;

d. In the event that the City does not grant at least one financial concession or incentive in addition to the density bonus, that additional concessions or incentives are not necessary to ensure affordable costs or the sales price or rent for the targeted dwelling units; and

e. There are sufficient provisions to guarantee that the dwelling units would remain affordable in the future.

G. Priority Processing of Affordable Housing Projects. A residential project that satisfies all applicable provisions of this section shall be given priority over other types of projects and permits by all City de-partments in the processing of land use permit and building permit applications, and in inspections of the project during the construction process.

16.44.070 Agricultural use regulations.

A. Under no circumstances shall any livestock animals, domestic or farm animals, poultry, or fowl be kept for commercial purposes in a residential, commercial or other nonagricultural zone. Cows, horses, sheep or goats may not be kept on lots less than forty thousand (40,000) square feet. The total number of such animals (other than their young under the age of six months) allowed on a lot is limited to the square footage of the lot divided by the total minimum areas required for each animal as listed below. The raising of swine is not permitted on lots less than five acres without prior approval by the city.

	Gross Area Required
Horses and Cows	
l or 2	40,000 sq. ft.
3	60,000 sq. ft.
4	80,000 sq. ft.
5 or more	95,000 sq. ft. plus 15,000 sq. ft. for each animal over 5
Goats and sheep	
per animal	10,000 sq. ft.
Llamas	
1 or 2	10,000 sq. ft.
3 or more	15,000 sq. ft. plus 5,000 sq. ft. for each llama over 3

B. Large animal runs or barns or pens shall be located on the rear half of the property but not closer than seventy (70) feet from the front property line or closer than one hundred (100) feet from any residence other than the residence of the owner.

1. Roosters, peacocks, and any other fowl known for its loud call are prohibited. Other types of fowl, as well as rabbits, may be kept, subject to one of the following options:

2. Hutches, coops, barns, or pens for a maximum of six rabbits or five hens shall be located a minimum of fifty (50) feet from any dwelling other than the dwelling of the owner and behind the front building line of the dwelling.

C. Animals, chickens and/or fowl shall be properly caged or housed, and proper sanitation shall be maintained at all times. All animal or poultry food, except fodder, shall be stored in metal or other rodent-proof containers. All animal byproducts and waste shall be kept a minimum of five feet from all lot lines. Hutches, coops, barns, and pens shall be enclosed on those sides that are not otherwise screened from adjacent lots by a sight-obscuring fence, wall, or hedge a minimum of six feet in height.

D. Commercial Activity in Conjunction with Agriculture. In agricultural zones, processing, selling (retail and wholesale), and/or distribution of agricultural products raised on-site are subject to the laws of the State of Oregon.

16.44.080 Special standards for neighborhood commercial uses.

A. Purpose and Applicability. Neighborhood commercial standards allow for small-scale commercial uses that are compatible with adjacent residential development. All neighborhood commercial uses shall comply with standards in this section, which are intended to promote land use compatibility and transition between neighborhood commercial and adjacent residential uses.

B. Permitted Uses. Only those neighborhood commercial uses specifically listed in Tables 16.22.040-1, 16.22.050-1 and 16.22.060-1 may be permitted.

C. Location. Neighborhood commercial uses are limited to lots located adjacent to the intersection of the following types of streets, as designated in the City's transportation system plan:

1. Major or minor arterial street and collector street or local street;

2. Collector street and collector street;

3. Collector street and local street.

D. Building Mass Supplemental Standard. The maximum width or length of a neighborhood commercial or mixed-use (residential and commercial) building shall not exceed sixty (60) feet (from end-wall to end-wall).

E. Floor Area Supplemental Standards. Floor area is measured by totaling the interior floor area of all building stories, except crawl spaces (i.e., with less than seven and one-half feet of vertical clearance). The maximum commercial floor area shall not exceed:

1. Seven thousand (7,000) square feet per building. For buildings located adjacent to the intersection of a major or minor arterial street and collector street.

2. Five thousand (5,000) square feet per building. For buildings located adjacent to the intersection of a collector street and collector street.

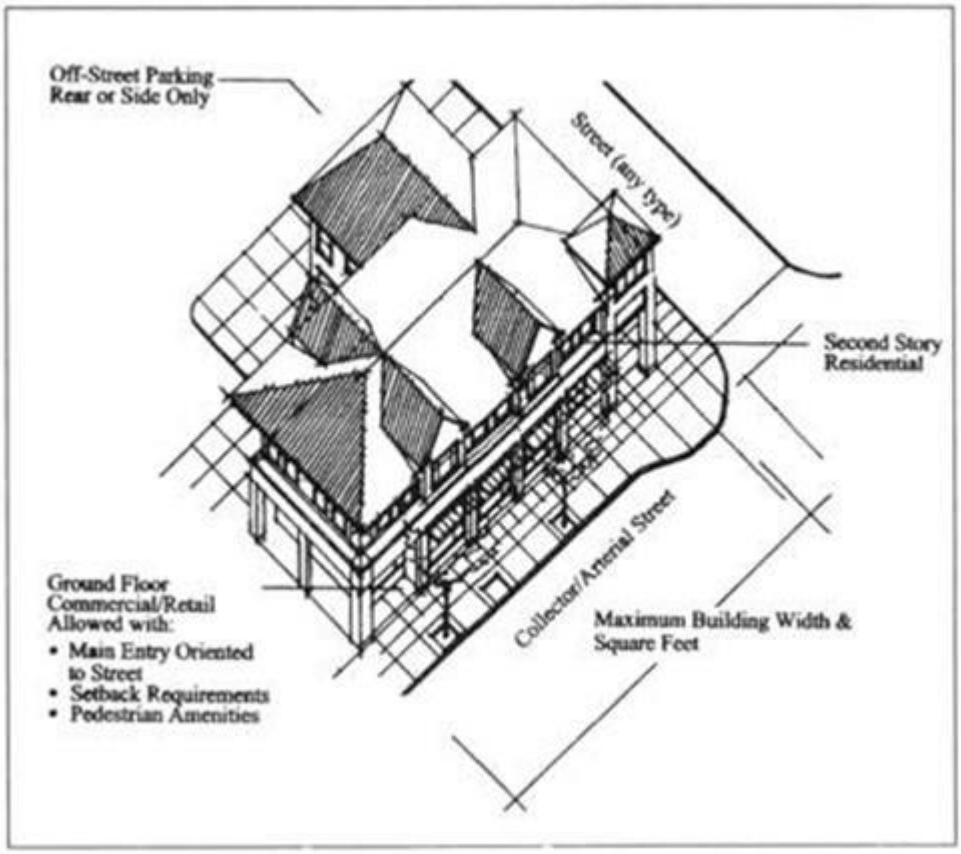
3. Three thousand (3,000) square feet per building. For buildings located adjacent to the intersection of a collector street and local street.

F. Minimum Setback.

1. Front: Twenty (20) feet.
2. Rear: Ten (10) feet.
3. Side: Ten (10) feet.
4. Street side: Eight (8) feet.
5. Maximum lot coverage: Seventy-five (75) percent.

G. Hours of Operation. Neighborhood commercial land uses shall be limited to the following hours of operation: 6:00 a.m. to 8:00 p.m.

Figure 16.44.080-1 Neighborhood Commercial (Typical Site Layout)



16.44.090 Design standards for drive-up/drive-in/drive-through uses and facilities.

When drive-up or drive-through uses and facilities are allowed, they shall conform to all of the following standards, which are intended to calm traffic, and protect pedestrian comfort and safety.

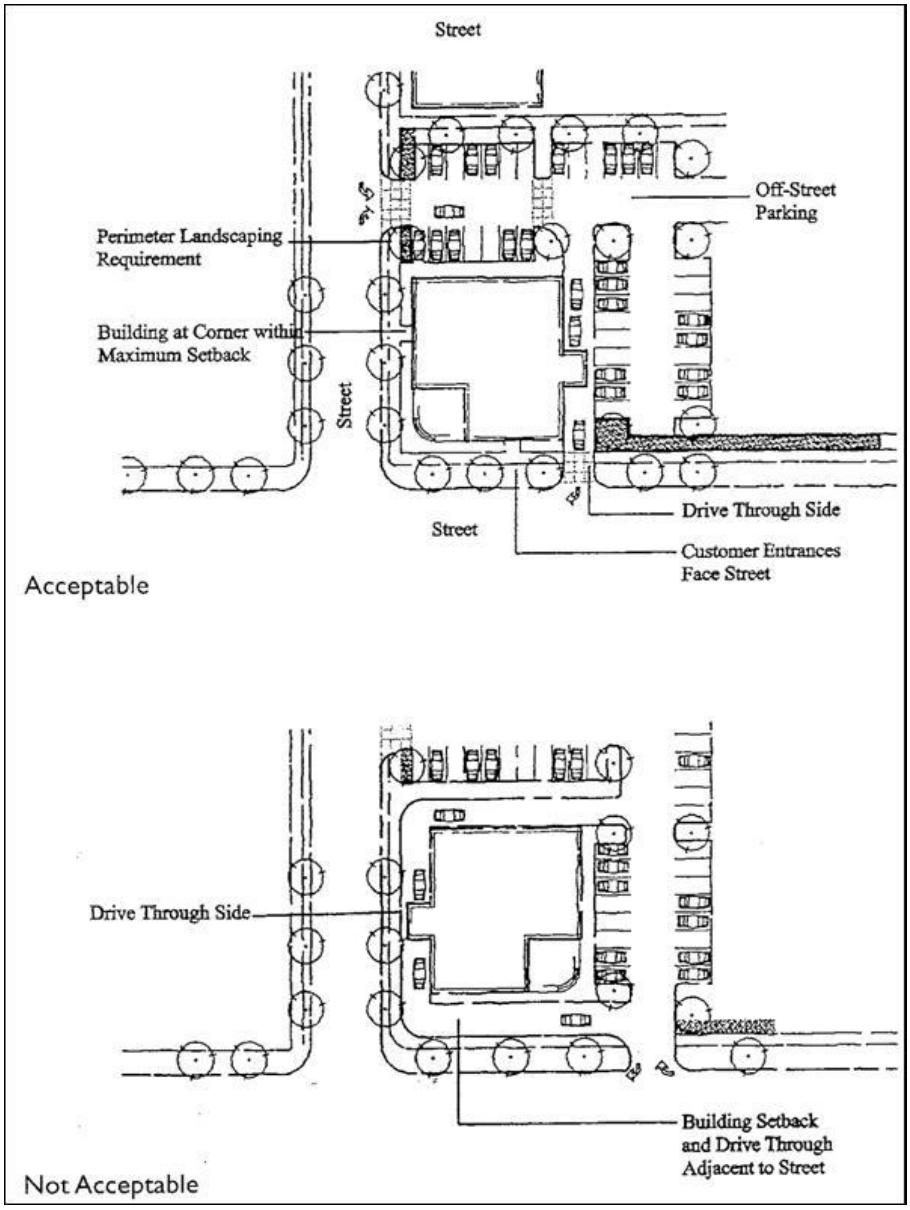
A. The drive-up/drive-through facility shall orient to an alley, driveway, or interior parking area, and not a street (Figure 16.44.090-1);

B. None of the drive-up, drive-in or drive-through facilities (e.g., driveway queuing areas, windows, teller machines, service windows, kiosks, drop-boxes, or similar facilities) are located within twenty (20) feet of a street and shall not be oriented to a street corner. Walk-up only teller machines and kiosks may be oriented to a street or placed adjacent to a street corner;

C. Drive-up/in queuing areas shall be designed so that vehicles do not obstruct a driveway, fire access lane, walkway, or public right-of-way; and

D. No more than one drive-up, drive-in, or drive-through facility shall be permitted for a distance of four hundred (400) linear feet along the same block face (same side of street).

Figure 16.44.090-1 Drive-Up and Drive-Through Facilities



16.44.100 Special standards for solar apparatus.

A. The installation and use on a residential structure of a solar photovoltaic energy system or a solar thermal energy system is an outright permitted use in any zone in which residential structures are an allowed use.

B. The installation and use on an institutional, commercial or industrial structure of a solar photovoltaic energy system or a solar thermal energy system is an outright permitted use in any zone in which institutional, commercial or industrial structures are an allowed use.

C. Approval of solar photovoltaic energy systems or solar thermal energy systems require:

1. Building permit approval only, land use fees and development standards outside of building height do not apply.

2. Roof-mounted solar photovoltaic energy systems or solar thermal energy systems require conformance with peak building height, must be located no higher than eighteen (18) inches off the roof and must be mounted so that the plane of the system is parallel to the slope of the roof.

3. Subsection (C)(2) does not apply to structures that are:

a. A federally or locally designated historic building or landmark or structures located in a federally or locally designated historic district.

b. A conservation landmark designated by a city or county because of the historic, cultural, archaeological, architectural or similar merit of the landmark or located in an area designated as a significant scenic resource unless the material used is designated as anti-reflective or eleven (11) percent or less reflective.

16.44.120 Design standards for single-family detached, townhomes, duplexes, triplexes, quadplexes and cottage clusters.

A. Applicability. New construction and modifications to existing detached single-family, townhomes, duplexes, triplexes, quadplexes, and cottage clusters shall meet the requirements of 16.44.120 unless exempt. The following are exempt from 16.44.120(B)1-2:

1. Dwelling units more than one hundred feet from the public right-of-way;

2. Expansion of an existing residential structure that adds less than 50 percent of the width on the street-facing façade;

3. Dwellings within a manufactured home park.

B. Design Standards

1. Windows. A minimum of 15 percent of the area of all street-facing facades must include windows or entrance doors. Facades separated from the street property line by a dwelling are exempt from meeting this standard. See Figure 16.44.120-5.

Figure 16.44.120-1. Window Coverage

2. Unit definition. Each dwelling must include at least eight of the following features on the most architecturally significant street-facing façade. All other street-facing facades must include windows or entrance doors for a minimum of fifteen percent of the area of the street-facing façade, window trim (minimum three inches wide), and at least three additional features.

a. A roof dormer that is at least four feet wide,

b. A balcony that projects a minimum of one foot from the wall of the building and is enclosed by a railing or parapet,

c. A bay window,

d. An offset of the facade of at least eighteen inches,

e. Recessed entry that is at least four feet behind the furthest forward living space on the ground floor and a minimum of five feet wide,

f. A covered entryway,

g. A porch that is a minimum four feet deep and forty square feet in area,

h. Window trim (minimum three inches wide),

i. Windows are wood, cladded wood, or fiberglass,

j. A minimum of thirty percent of the area of the street-facing façade includes windows and/or entrance doors,

k. Gables,

l. Cupolas or towers,

m. Pillars or posts,

n. Eaves (minimum twelve inch projection),

o. A minimum of fifty square feet of decorative patterns on exterior finish (e.g., scales/shingles, wainscoting, ornamentation or similar features),

p. Decorative cornices and roof lines (e.g., for flat roofs),

q. Windows in the garage doors,

r. A minimum twelve square foot window above the garage,

s. Garages are recessed a minimum of two feet behind the living space,

t. A third garage door that is recessed a minimum of two feet from other garage doors onsite,

u. No garage on the façade.

3. Alley Access, Street Access, and Common Area Development and Design Standards

This section is not applicable to middle housing child lots.

a. Alley Access Development. Development with vehicle access only from a rear alley or other grouped accessways are subject to the following requirements.

i. Alleys and grouped access shall be created at the time of a land division, in accordance with Chapter 16.63, Land Divisions and Property Line Adjustments, and any other applicable transportation standards.

ii. Dedication of right-of-way or easements and construction of pathways between townhome lots (e.g., between building breaks) to implement the access and circulation standards of Chapter 16.41 and the TSP.

iii. As used here, grouped access is not intended to result in consolidated access to front-loaded garages that would not otherwise be allowed by this code.

b. Street Access Development. Development with access directly from a public or private street must comply with the following standards to minimize interruption of adjacent sidewalks by driveway entrances, slow traffic, improve appearance of the streets, and minimize paved surfaces for better stormwater management.

i. One driveway is allowed per frontage. A second driveway may be approved by a City Engineer if it is safe and allows for installation of adequate street trees along the frontage of the site.

ii. Two adjacent properties may share one driveway. When a driveway serves more than one lot, an access and maintenance easement/agreement to benefit each lot shall be recorded prior to building permit issuance.

iii. Residential driveway approach widths shall be limited to half the parcel frontage width, with a minimum approach width of 12 feet and a maximum approach width of 35 feet. A wider approach may be approved by the City Engineer.

iv. Lots and parcels with more than one frontage shall access the street with the lowest street classification in the Transportation System Plan.

v. Driveways shall comply with the City's access spacing standards.

4. Common Areas. "Common areas" (e.g., landscaping in private tracts, shared driveways, private alleys, and similar uses) shall be maintained by a homeowners association or other legal entity. A homeowners association may also be responsible for exterior building maintenance. A copy of any applicable covenants, restrictions and conditions shall be recorded and provided to the City prior to building permit approval.

16.44.130 Design standards for cottage cluster housing

A. Cottage cluster development shall comply with the standards set forth below. The standards are intended to control development scale, provide for common areas within cottage cluster developments, and ensure consistency with state requirements for cottage cluster housing. If the cottage cluster has been divided by a middle housing land division (per Chapter 16.61), the design standards in this section that are applicable to the lot or applicable on a per-lot basis, shall apply to the middle housing parent lot, not the middle housing child lots.

1. General Standards.

a. Number of Dwellings.

i. A cottage cluster project shall contain a minimum of 4 and a maximum of 8 cottages oriented around a common courtyard.

ii. All cottages must share the same common courtyard.

iii. A cottage cluster project may not include more than one cluster on a single lot.

b. Setbacks.

i. Building Separation. Cottages shall be separated by a minimum distance of 6 feet. The minimum distance between all other structures, including accessory structures, shall be in accordance with building code requirements.

ii. All other setbacks are provided in Tables 16.22.020-2, 16.22.030-2, 16.22.040-2, and 16.22.050-2.

c. Building Height. The maximum building height for all structures is 25 feet.

d. Footprint. The building footprint for each cottage shall be less than 900 square feet.

e. Maximum Floor Area.

i. Floor Area. The maximum permitted floor area of each cottage is 1,400 square feet.

ii. Average Floor Area. The maximum average floor area permitted for a cottage cluster is 1,000 square feet per cottage. Community buildings shall be included in the average floor area calculation for a cottage cluster.

f. Accessory Buildings. Accessory buildings must not exceed 400 square feet in floor area.

2. Cottage Orientation. Cottages must be clustered around a common courtyard and must meet the following standards (see Figure 16.44.130-1 Cottage Cluster Orientation and Common Courtyard Standards):

a. Each cottage within a cluster must either abut the common courtyard or must be connected to it by a pedestrian path. This standard may not be adjusted.

b. A minimum of 50 percent of cottages within a cluster must be oriented to the common courtyard and must:

i. Have a main entrance facing the common courtyard;

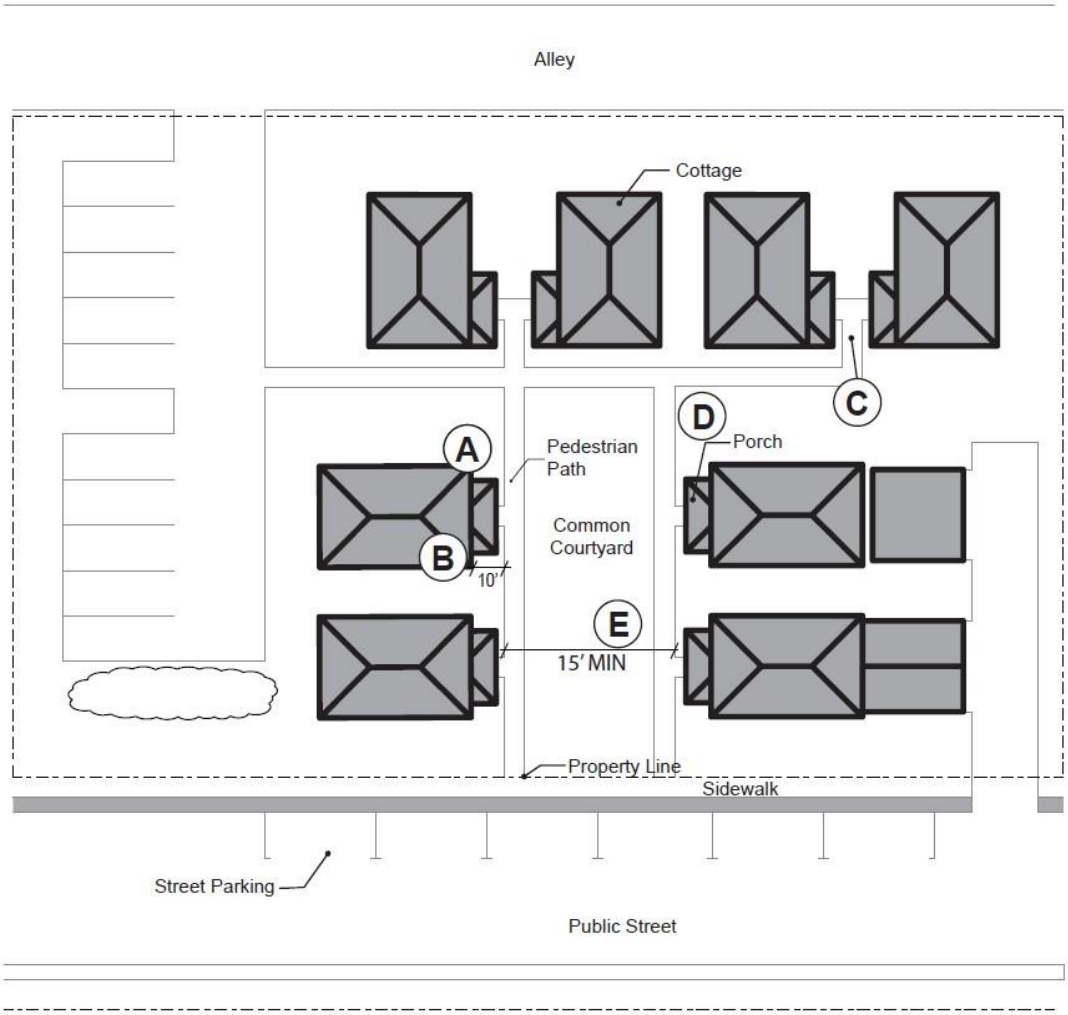
ii. Be within 10 feet from the common courtyard, measured from the façade of the cottage to the nearest edge of the common courtyard; and

iii. Be connected to the common courtyard by a pedestrian path.

c. Cottages within 20 feet of a property line abutting a street may have their entrances facing the street.

d. Cottages not facing the common courtyard or the street must have their main entrances facing a pedestrian path that is connected to the common courtyard.

Figure 16.44.120-1. Cottage Cluster Orientation and Common Courtyard Standards



A A minimum of 50% of cottages must be oriented to the common courtyard.

B Cottages oriented to the common courtyard must be within 10 feet of the courtyard.

C Cottages must be connected to the common courtyard by a pedestrian path.

D Cottages must abut the courtyard on at least two sides of the courtyard.

E The common courtyard must be at least 15 feet wide at it narrowest width.

3. Common Courtyard Design Standards. Each cottage cluster must share a common courtyard in order to provide a sense of openness and community of residents. Common courtyards must meet the following standards (see Figure 16.44.130-1. Cottage Cluster Orientation and Common Courtyard Standards):

a. The common courtyard must be a single, contiguous piece.

b. Cottages must abut the common courtyard on at least two sides of the courtyard.

c. The common courtyard must contain a minimum of 150 square feet per cottage within the associated cluster.

d. The common courtyard must be a minimum of 15 feet wide at its narrowest dimension.

e. The common courtyard shall be developed with a mix of landscaping, lawn area, pedestrian paths, and/or paved courtyard area, and may also include recreational amenities. Impervious elements of the common courtyard shall not exceed 50 percent of the total common courtyard area.

f. Pedestrian paths must be included in a common courtyard. Paths that are contiguous to a courtyard shall count toward the courtyard's minimum dimension and area. Parking areas, required setbacks, and driveways do not qualify as part of a common courtyard.

4. Community Buildings. Cottage cluster projects may include community buildings for the shared use of residents that provide space for accessory uses such as community meeting rooms, guest housing, exercise rooms, day care, community eating areas, or picnic shelters. Community buildings must meet the following standards:

a. Each cottage cluster is permitted one community building.

b. The community building shall have a maximum floor area of 1,400 sf. In addition, the community building shall count towards the maximum average floor area of the cottage cluster, pursuant to subsection 16.44.120(1)(e)(ii).

c. A community building that meets the definition of a dwelling unit must meet the maximum 900 square foot footprint limitation that applies to cottages (pursuant to subsection 16.44.120(1)(d), unless a covenant is recorded against the property stating that the structure is not a legal dwelling unit and will not be used as a primary dwelling.

5. Pedestrian Access.

a. A pedestrian path must be provided that connects the main entrance of each cottage to the following:

i. The common courtyard;

ii. Shared parking areas;

iii. Community buildings; and

iv. Sidewalks in public rights-of-way abutting the site or rights-of-way if there are no sidewalks.

b. The pedestrian path must be hard-surfaced and a minimum of 4 feet wide.

6. Parking Design (see Figure 16.44.130-2. Cottage Cluster Parking Design Standards).

a. Clustered parking. Off-street parking may be arranged in clusters, subject to the following standards:

i. Cottage cluster projects are permitted parking clusters of not more than 8 contiguous spaces.

ii. Parking clusters must be separated from other spaces by at least 4 feet of landscaping.

iii. Clustered parking areas may be covered.

iv. Parking areas must also meet the standards in Section 16.43.030 of this code, except where they conflict with these standards.

b. Parking location and access.

i. Off-street parking areas with 5 or more spaces shall not be located within 20 feet from any property line that abuts a street other than an alley;

ii. No off-street parking space or vehicle maneuvering area is permitted between a property line that abuts a street (other than an alley) and the front façade of cottages located closest to that property line.

iii. No off-street parking space is permitted within 10 feet of any other property line external to the cottage cluster, except property lines abutting an alley. Driveways and drive aisles are permitted within 10 feet of other external property lines.

iv. Driveways must meet the access connection standards in Section 16.41.030 of this code.

c. Screening. Sight-obscuring landscaping, fencing, or walls at least three feet tall shall separate clustered parking areas and parking structures from common courtyards and property lines external to the cottage cluster.

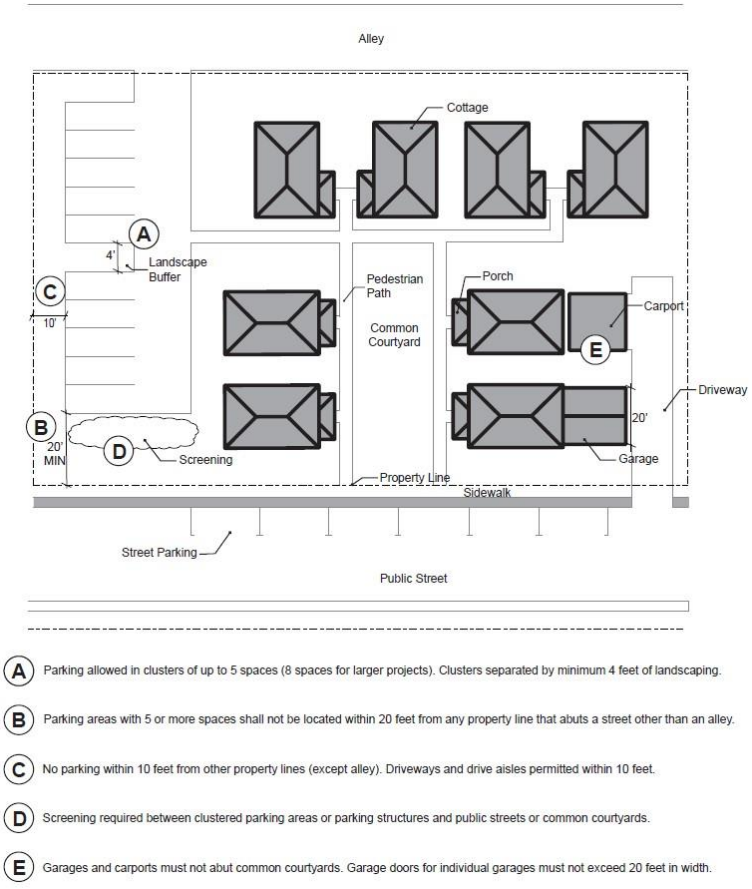
d. Garages and carports.

i. Garages and carports (whether shared or individual) must not abut more than 25 percent of a common courtyard's perimeter.

ii. Individual detached garages must not exceed 400 square feet in floor area.

iii. Garage doors for attached and detached individual garages must not exceed 20 feet in width.

Figure16.44.130-2. Cottage Cluster Parking Design Standards



7. Existing Structures. On a lot or parcel to be used for a cottage cluster project, an existing single detached dwelling and accessory uses and buildings on the same lot at the time of proposed development of the cottage cluster may remain within the cottage cluster project area under the conditions in a – e below.

a. The existing dwelling may be nonconforming with respect to the requirements of this Section 16.72.020 of this code.

b. The existing dwelling may be expanded up to a maximum height of 25 feet or a maximum building footprint of 900 square feet; however, existing dwellings that exceed these maximum height and/or footprint standards may not be expanded.

c. The floor area of the existing dwelling shall not count towards the maximum average floor area of a cottage cluster.

d. The existing dwelling shall be excluded from the calculation of orientation toward the common courtyard, per subsection 16.44.020(2)(b).

e. The existing dwelling(s) shall count as a unit in the cottage cluster.

Chapter 16.45 SIGNS

16.45.010 Purpose.

This section regulates the erection, placement and maintenance of signs to protect and enhance public health, safety, welfare and property, more specifically to:

A. Purpose.

1. Allow those signs compatible with the character and uses allowed in the zoning district in which they are located;

2. Maintain the effectiveness of traffic signs;

3. Prohibit certain signs or portions thereof, which conflict with the safe movement of people and emergency services, constitute a public nuisance or hazard, are of unsafe construction, or which demand attention by their dominating size or appearance of motion;

4. Maintain and enhance the scenic and other aesthetic qualities of the City.

B. Scope. All signs, including sign structures and display areas or building walls with lettering on them shall be erected and maintained only as provided by this section, except for the following: Signs inside a building, except for strobe lights, floating lights, or neon lights visible from a public right-of-way, private road or other private property.

16.45.020 Permit required.

A. Permit Required. No sign shall be erected, constructed, maintained, modified, or relocated, except as provided by this section. This permit requirement applies to all signs, except those specifically exempt by a provision of this section and signs existing on the date of adoption of this Zoning Ordinance, which shall be subject to subsection D of this section.

B. Permit Application. Application for a sign permit shall be made in writing upon forms furnished by the Sign Official. A permit application fee shall accompany the application for it to be processed by the City. The amount of the fee shall be proportionate to the value of the sign proposed and shall be calculated according to a permit fee schedule adopted by resolution of the City Council. The application shall include all plans and information necessary to establish that the proposed sign complies with all applicable requirements of this chapter and applicable buildings, structural and life safety codes. The permit shall be valid if the sign is erected and maintained in compliance with the Happy Valley Municipal Code, and the applicant did not misrepresent or falsify any information supplied in the application. Any permit issued under this chapter shall be void if no substantial physical action be taken, in accordance with any conditions of the permit and the applicable requirements of this chapter, within ninety (90) days following the date of its issuance. Any permit issued under this chapter shall remain in effect as long as the sign is maintained in compliance with any permit conditions and all applicable provisions of this chapter.

C. A separate sign permit application shall be submitted for each sign erected, constructed, modified, relocated, replaced, face changed or structurally altered and for sign repair that includes these activities. Sign maintenance requires no permit. All proposed work on a sign shall be shown in the sign permit application.

D. When required by the Uniform Building Code or the Building Official, a separate building permit shall be obtained from the City for the erection, construction, modification, relocation, replacement, change of sign face or alteration of a sign or sign structure.

E. When required by the State Electrical Code or the Building Official, an electrical permit shall be obtained from the issuing authority before connecting an electrical sign to a source of electricity.

The electrical components of signs shall meet the applicable electrical standards as shown by certification from those testing laboratories approved by the State of Oregon meeting the testing standards for electrical safety as required by Oregon Revised Statutes 479.510-479.855 and Oregon Administrative Rule 918-330-000, as constituted on the effective date of the ordinance codified in this Code or as may hereafter be amended.

F. Building and electrical permits shall be applied for in accordance with the procedures of the issuing agency, provided such permits are not issued until a sign permit has been issued.

G. The Planning Official or designee may require that a sign permit application be submitted for each sign on a property required to have a permit, if no permit for such sign has been previously issued.

H. Appeals. A person aggrieved by a decision of the Sign Official may appeal the decision to the Hearings Officer. The appeal shall be in writing and be received by the City Recorder no later than ten (10) days after the date the challenged decision is final.

16.45.030 Sign permit process.

A. A person may apply for a sign permit and any required building permit and/or electrical permit concurrently. A decision on the sign permit shall be issued first, followed by a decision on the related building or electrical permits.

B. A sign permit application form, checksheet and instruction sheet shall be established by the Sign Official. Sign permit applications which do not provide the information required by this Code, the application form, checksheet and instruction sheet may be rejected by the Sign Official. The Sign Official shall determine if an application provides the required information.

C. A complete sign permit application shall be submitted to and reviewed by the Sign Official or designee. The application is not complete unless the application fee is submitted with the application. The application shall be approved, approved with conditions or denied by the Planning Official or designee. An application for a sign that is erected prior to submitting the application and does not meet the requirements of this chapter shall be denied.

D. Where a sign permit is required, a sign contractor registered with the State of Oregon Construction Contractors Board shall be the applicant. A person, other than the registered sign contractor, may deliver and submit the application to the Planning Official or designee. The application shall contain or include the following information:

1. Completed sign application form;
2. Payment of fee;
3. Three site plans (8-1/2″ x 11″) to scale. Site plans shall show the following information:
    a. Placement of sign on property,
    b. Setbacks of sign from property line,
    c. Indicate any easements;
4. Three drawings (8-1/2″ x 11″) of sign to scale. Drawings shall include:
    a. Size of lettering,

b. Dimensions of sign (height and width),

c. How the sign will be mounted or affixed.

E. After a complete sign permit application has been submitted and accepted, the applicant may request in writing that the application be withdrawn. The Planning Official or designee may return the application, and reimburse the application fee, less compensation for any work that has already been completed.

F. If the work authorized by the sign permit is not completed within ninety (90) days after the date of the sign permit issuance, the permit shall expire and be null and void. Upon written request of the applicant, submitted to the Planning Official or designee prior to the expiration date, one ninety (90) day extension of the sign permit approval may be granted by the Planning Official or designee if there have been no amendments to the specific sign regulations that applied to the proposed sign at the time the sign permit was first approved. The Planning Official or designee's decision shall be in writing and mailed to the applicant.

G. The Planning Official or designee may revoke any sign permit where there has been a violation of the provisions of this chapter or a misrepresentation of fact on the permit application, the materials submitted as a part of the application, or both.

H. The Planning Official or designee may issue a sign permit, if a sign permit is required, to erect a temporary sign on a property with no building, provided the proposed temporary sign meets all applicable regulations.

I. The Planning Official or designee shall not issue a sign permit to erect a permanent sign, or to change a sign face on an existing permanent sign, on an unoccupied building.

16.45.040 Variances.

Variances to the standards of this chapter shall be processed in accordance with Chapter 16.71, Variances. Applications for variances shall be submitted at the same time as an application for a sign permit, and the applications shall be reviewed concurrently.

16.45.050 Prohibited signs.

It is unlawful for the following signs to be erected or to be maintained except as otherwise provided in this section:

A. Billboards;

B. A sign that interferes in any way with a traffic control sign or device or prevents clear and unobstructed view of official traffic control signs or devices or approaching or merging traffic;

C. A sign that contains, includes or is illuminated by any flashing or revolving, rotating or moving light or moves or has any animated or moving parts. This subsection does not apply to traffic control signs or devices and "readerboard" signs less than twenty-four (24) square feet in size as authorized by this chapter;

D. A sign with lighting which is not effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled right-of-way of a State highway, or is of such low

intensity or brilliance as not to cause glare or to impair the vision of the driver of a motor vehicle or otherwise to interfere with the operations thereof;

E. A sign in excess of three square feet, located upon a tree, or painted or drawn upon a natural feature;

F. An obsolete sign;

G. Permanent inflatable signs (including "blimp" type signs typically extended from a building roof), permanent streamers, balloons, hulas, flags, banners, pennants, etc., or vehicle mounted signs, excepting traditional holiday decorations or temporary signs pursuant to the provisions of this chapter;

H. A sign that obstructs free ingress to or egress from any door, window or fire escape, alley, drive or fire lane, or is attached to a fire escape;

I. A sign erected or maintained on public property or within the public right-of-way without permission of the public body having jurisdiction. This shall include signs placed on utility poles located within public right-of-way;

J. A sign not able to withstand a wind pressure of twenty (20) pounds per square foot of exposed surface, or is insecurely erected, or is constructed so as to constitute a fire hazard;

K. A sign not maintained in a safe, neat, clean and attractive condition and in good repair;

L. Any sign larger than four square feet on an undeveloped lot or parcel of property other than temporary signs as provided by this chapter;

M. A sign not otherwise in compliance with any provision of this Code, Oregon law or the terms and conditions of any valid sign permit issued under this chapter;

N. Signs with rotating or moving parts or any portion thereof designed to move unless specifically allowed by the provisions of this chapter;

O. Electronic display signs or readerboards, including any video display board of television quality in which the rate of change is electronically programmed that exceed twenty-four (24) square feet in size. Electronic readerboards of any size are prohibited in residential zones unless authorized by a conditional use permit;

P. Signs with exposed lighting or neon tubes on the sign face in residential zones;

Q. Roof signs;

R. Signs with light intensity in excess of the standards of the sign industry, as provided by the Oregon Electric Sign Association;

S. Hazards. No sign, light, electrical cord, streamer, flag, or other apparatus shall be situated or used in a manner which creates a hazard.

16.45.060 Signs not requiring a permit.

A. In any commercial or industrial zoning district, the following signs may be placed and maintained without a permit, so long as they comply with all applicable provisions of this section:

1. A single, temporary or permanent sign per street frontage where the display surface area does not exceed six square feet per sign face;

2. Window signs, up to nine square feet, situated on the indoor side of a window or door;

3. Signs attached to, or carried by, a person;

4. Signs required by law or legal action, including, but not limited to, signs warning of hazardous or dangerous conditions on a premises and land use application and hearing notice signs.

B. In any residential or institutional zoning district, the following signs may be placed and maintained without a permit, so long as they comply with all applicable provisions of this section and are not illuminated:

1. Signs required by law or legal action including, but not limited to, signs warning of hazardous or dangerous conditions on a premises and land use application and hearing notice signs; and

2. Four temporary signs where the display surface area does not exceed six square feet per sign face and sign height does not exceed six feet. A person or entity selling a property or advertising a public election shall remove temporary signs twelve (12) days within the closing of the sale, all other temporary signs shall be removed twelve (12) days after placement.

16.45.070 General provisions.

A. Location. Except for traffic control devices, public signs and special event banner signs, signs shall be located on private property outside of the public right-of-way and shall not extend over or into the public right-of-way. Signs shall not be constructed in or extend over or into easements for public sewer, water or storm drain lines or within five feet of such lines, or within the dripline of existing trees.

B. Vision Clearance Area. Signs may be located in the vision clearance areas provided they do not extend into the space between thirty (30) inches and ten (10) feet in height measured from the top of the curb. When no curb is present, measurements shall be taken from the established centerline grade. The following shall be exempt from the clear vision areas:

1. Light and utility poles with a diameter less than two inches;

2. An existing tree, trimmed to the trunk, twelve (12) feet above the curb;

3. Official warning or street sign.

C. Pedestrian Clearance Area. Signs erected over or extending over private or public pedestrian walkways or paths shall provide a vertical clearance of at least ten (10) feet from the surface of the walkway or path to the lowest portion of the sign.

D. Signs Incorporated into Fences. Except for signs at subdivision entrances located in a private tract median island within a public right-of-way, monument signs may be affixed to and be part of a masonry fence. Pole signs shall be affixed only to the ground.

E. Copy. Copy shall be placed only on the sign face.

F. Dedication of Right-of-Way. Signs and their structures and foundations shall be removed from property subject to dedication to the public before such dedication shall be accepted by the City.

G. Illumination.

1. Lights providing indirect illumination onto signs shall be directed so the source of light is not visible from public right-of-way or from properties in residential planning districts.

2. Neon lighting is the only permitted lighting for direct illumination. Neon, incandescent and fluorescent lighting are permitted for indirect or internal illumination.

3. The surface brightness of any sign shall not exceed that produced by the diffused output obtained from eight hundred (800) milliampere fluorescent light sources spaced not closer than eight inches on center.

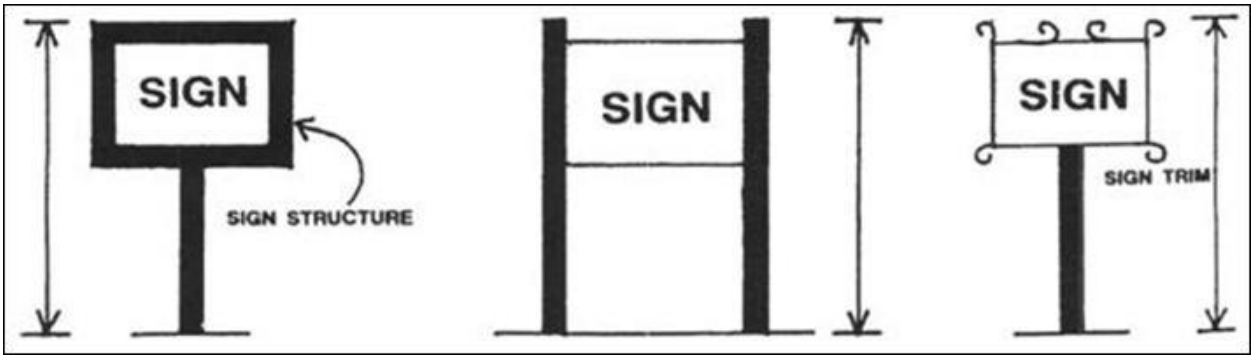
H. Sign Maintenance and Repair. All signs shall be maintained in good order and repair at all times. Signs which have become faded, worn, damaged or are unsafe or pose a danger to the public shall be maintained, repaired, or removed.

16.45.080 Measuring signs and building/structure elevation.

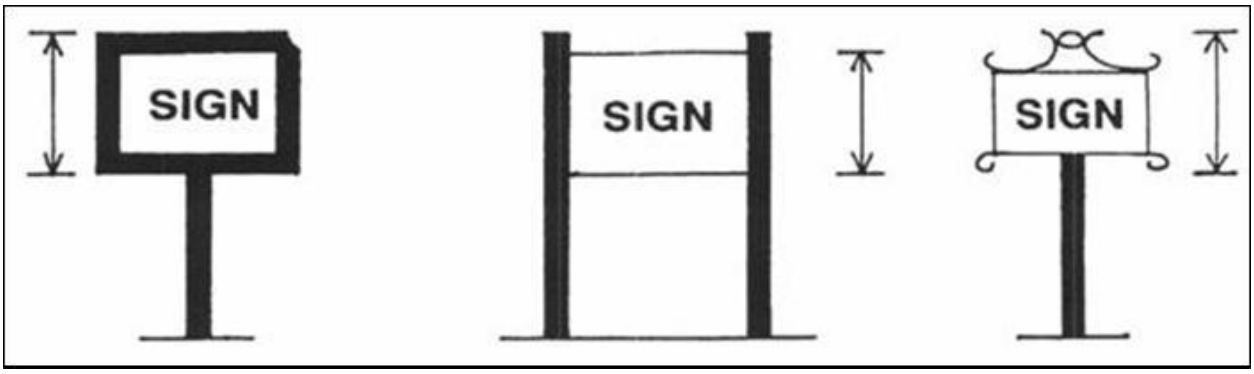
The diagrams provided in this section are intended for illustration only. For purposes of this section, signs and building or structure elevations shall be measured as follows:

A. Freestanding Pole Signs.

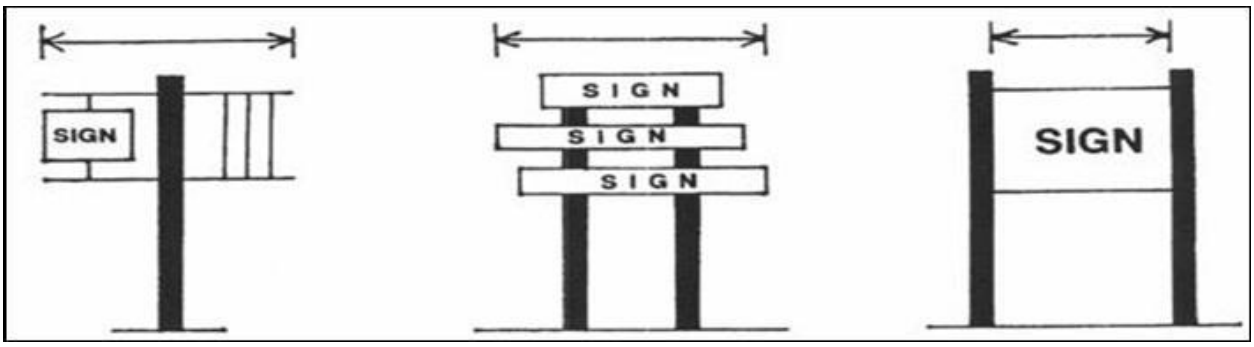
1. Height of Sign. The measurement shall be from the grade to the highest point of the sign, including the sign face structure, pole and any projections, decoration or trim of the sign face structure or pole.



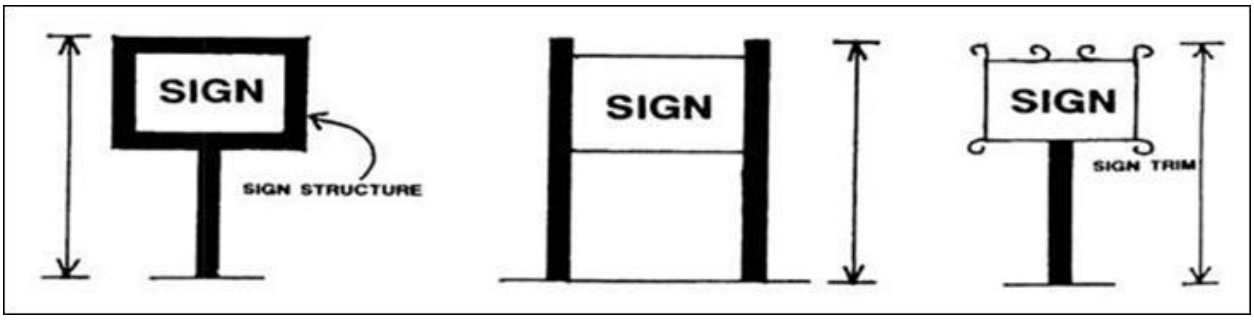
2. Height of Sign Face. The measurement shall be from the lowest point to the highest point of the sign face, including the sign face structure and any projection, decoration or trim of the sign face or structure.



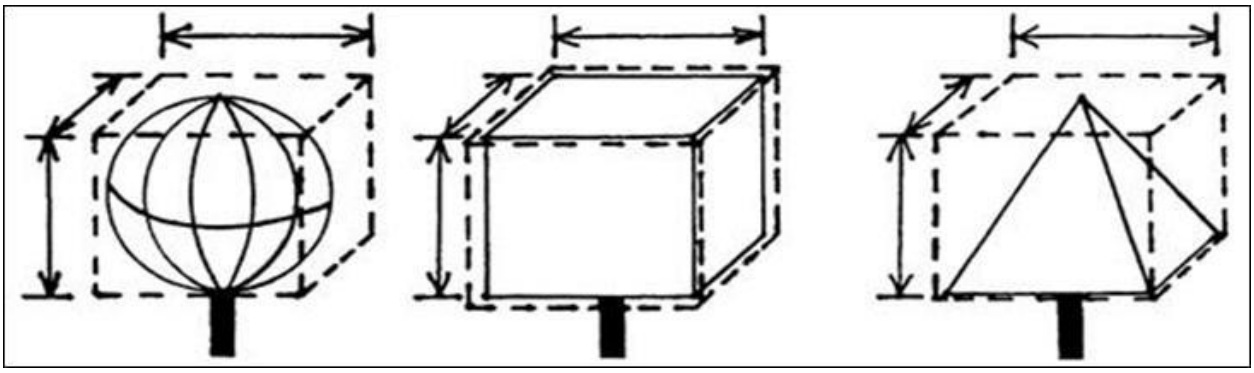
3. Width of Sign Face. The measurement shall extend from the outer edges side to side and include the structure projection, decoration or trim of the sign face or structure, but not the supporting pole.



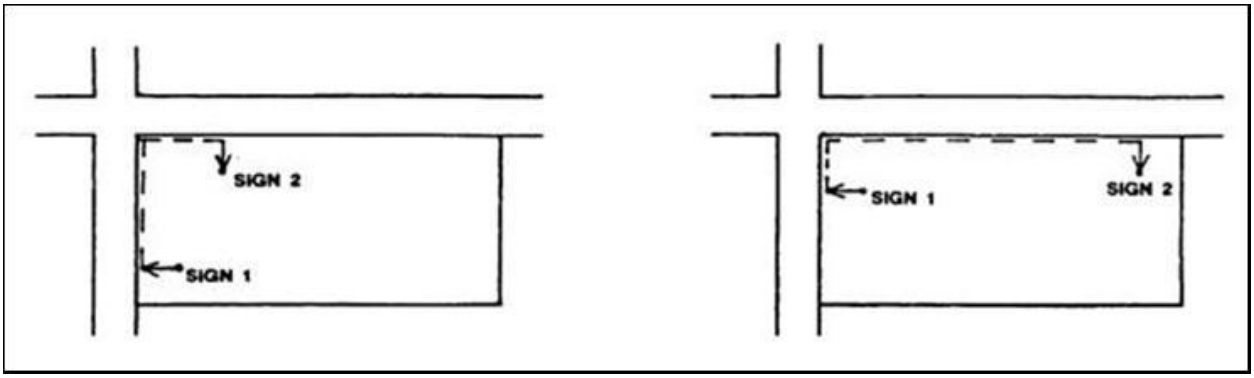
4. Sign Face Area, Single and Double-Sided Signs. Only one side of a sign shall be measured. When the sides of a double sided sign are not equal, the larger side shall be measured. The measurement shall enclose the sign face, including any projections, decoration or trim of the sign face and any direct illumination on the sign pole, within not more than three squares or rectangles or both which touch and sum the areas. The squares or rectangles may be rotated. The minimum dimension of a square or rectangle connecting two sign faces is one foot.



5. Sign Face Area for Signs With More Than Two Sides (Multifaceted Signs). The measurement shall enclose the sign faces and structures, including any projection, decoration or trim of the sign faces and structures and any direct illumination of the sign pole, within a square or rectangle and summing the area of the six sides.

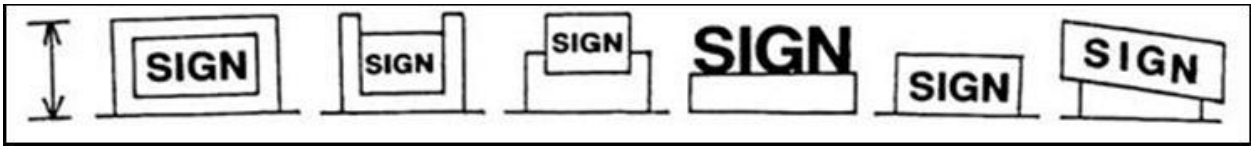


6. On-site Separation Between Signs. When freestanding signs are required to be separated by a specific distance from each other, the distance shall be measured beginning at the center of the footprint of one sign, then measuring by the shortest route to the nearest property line, then along the property line to the point on the property line nearest to the second sign and then by the shortest route to the center of the footprint of the second sign. If the above directions result in two or more different measurements, the shortest shall be used.

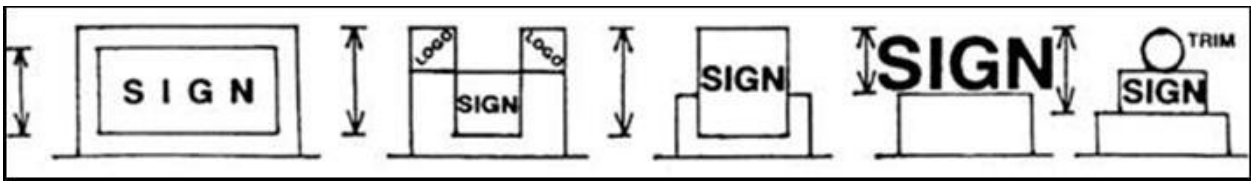


B. Freestanding Monument Signs.

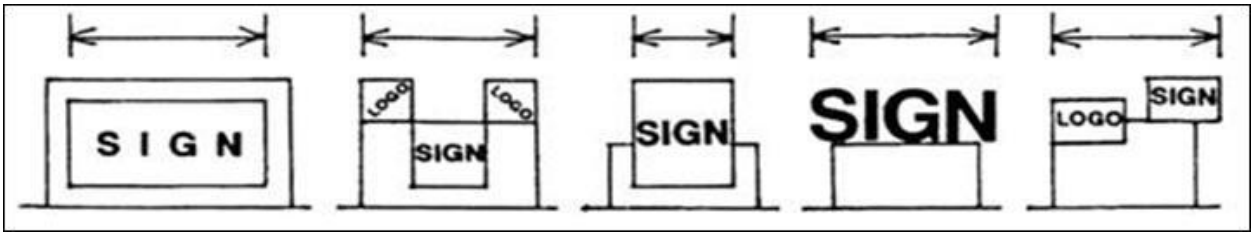
1. Height of Sign. The measurement shall be from the grade to the highest point of the sign, including the sign face, structure and any projection, decoration or trim of the structure.



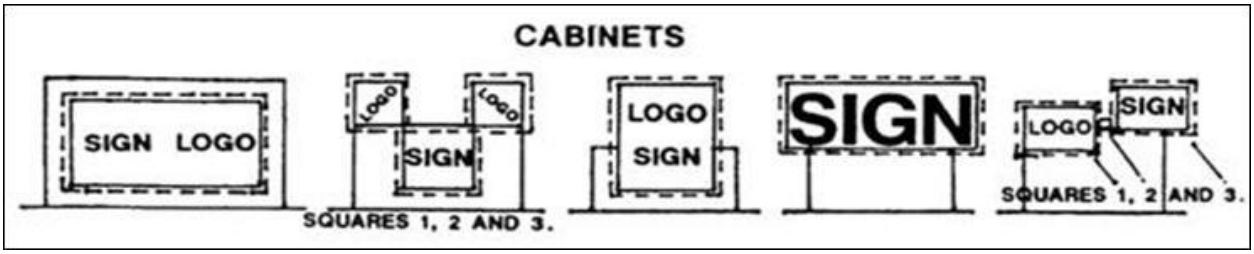
2. Height of Sign Face. The measurement shall be from the lowest point to the highest point of the sign face, including any projection, decoration or trim of the sign face.

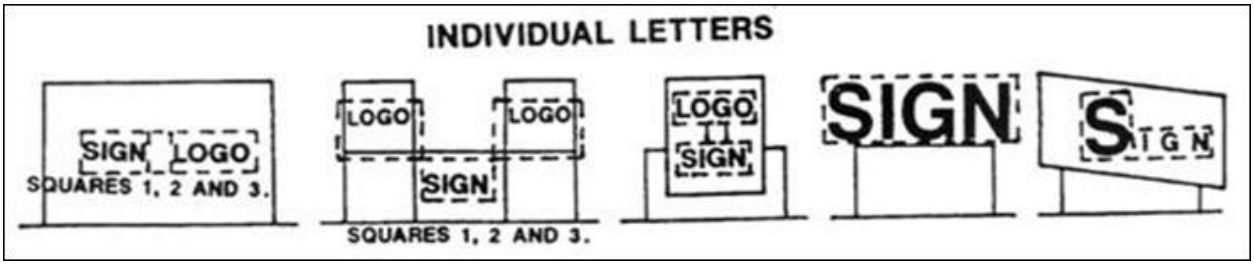


3. Width of Sign Face. The measurement shall be from the outer edges side to side and include any projection, decoration, or trim of the structure.



4. Sign Face Area. Only one side of the sign shall be measured. When the sides of a double-sided sign are not equal, the larger side shall be measured. The measurement shall enclose the sign face, including any projection, decoration or trim of the sign face, within not more than three squares or rectangles may be rotated. The minimum dimensions of a square or rectangle connecting two sign faces is one foot.

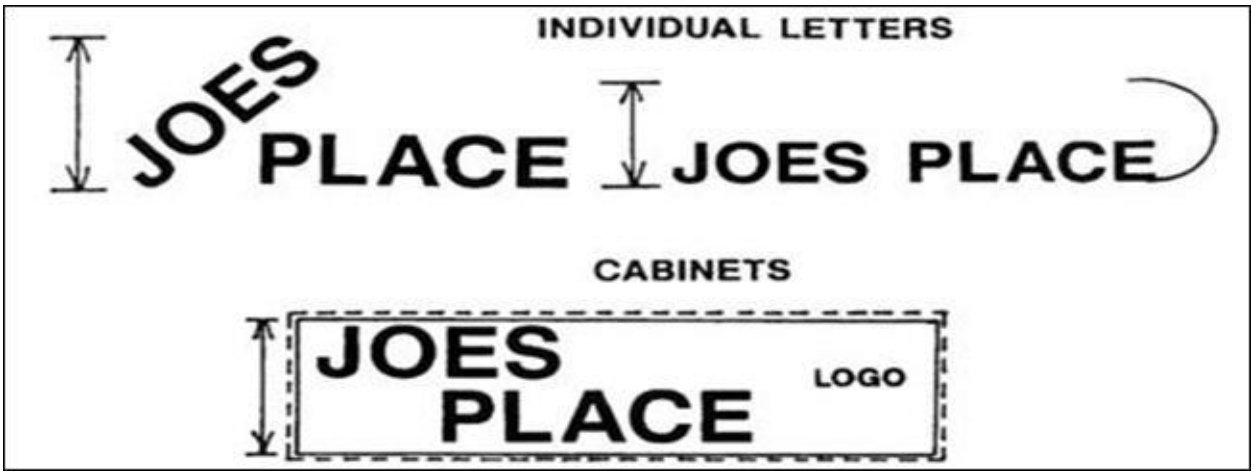




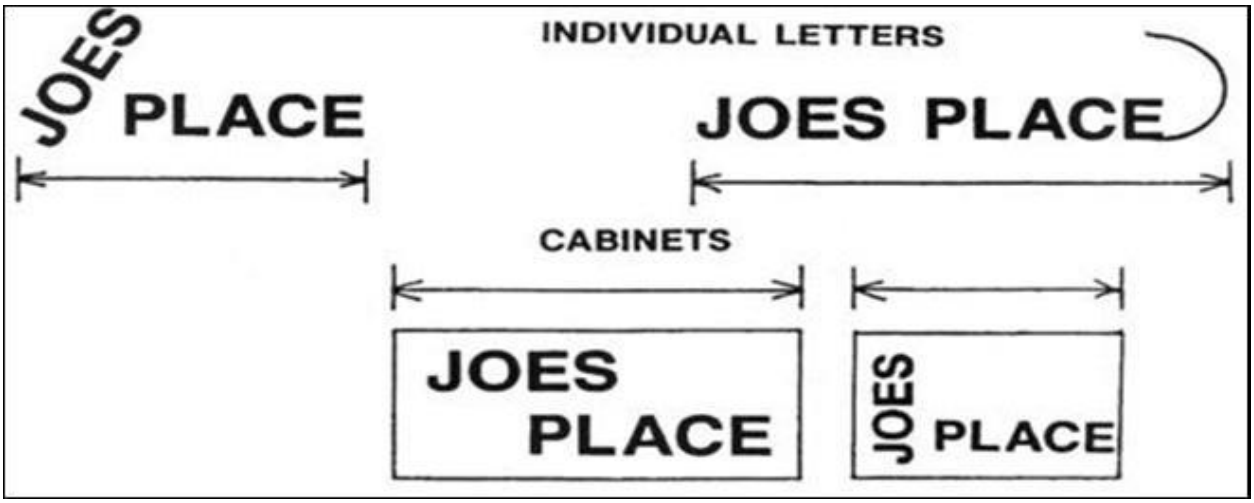
5. On-site Separation Between Signs. See Section A.6 above.

C. Wall Signs.

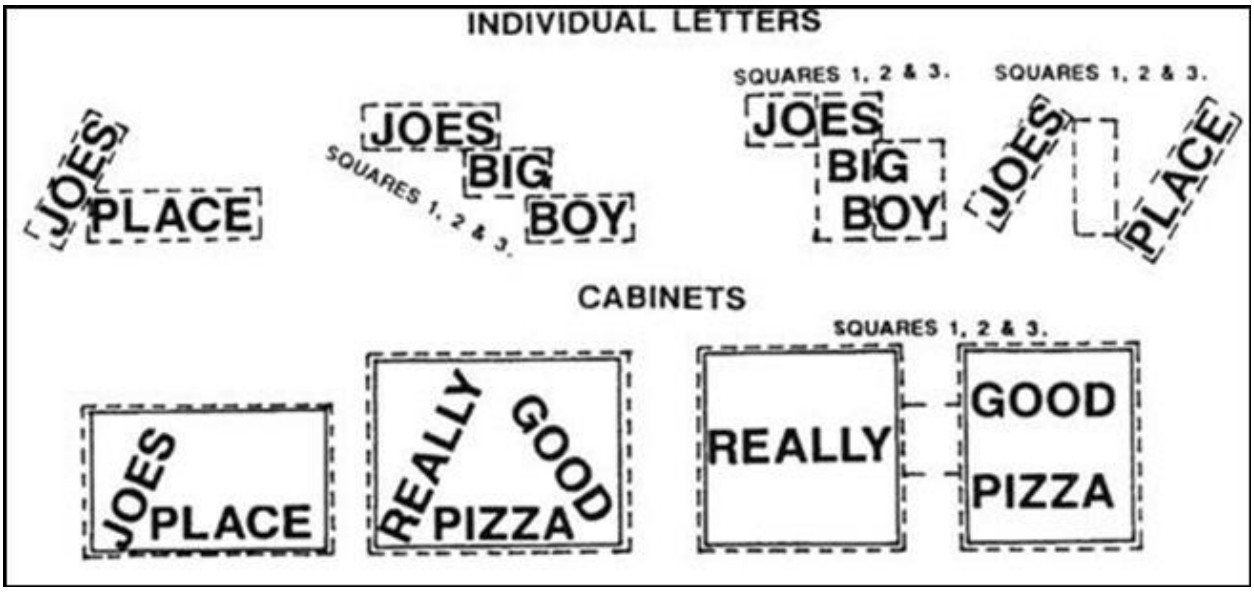
1. Height of Sign Face. The measurement shall be from the lowest point to the highest point of the sign face, including any projection, decoration, individual letters, cabinet or trim of the sign face.



2. Width of Sign Face. The measurement shall extend from the outer edges side to side and shall include any projection, decoration or trim of the sign face.

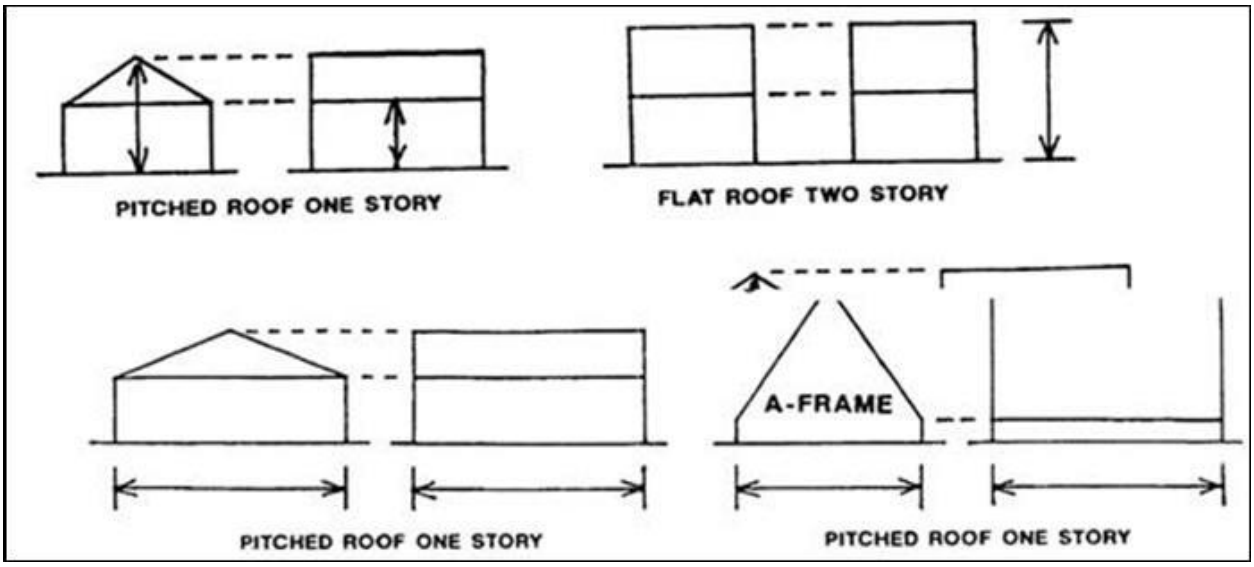


3. Sign Face Area. The measurement shall enclose the sign face, including any projections, decoration or trim of the sign face, within not more than three squares or rectangles or both which touch and sum of the areas. The squares or rectangles may be rotated. The minimum dimension of a square or rectangle connecting two sign faces is one foot.

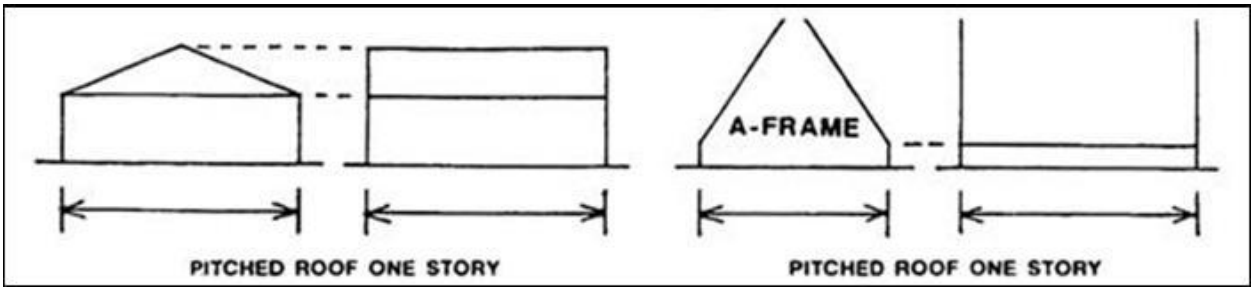


4. Building and Structure Elevations. The measurement shall be of the tenant's owned or leased wall and from the perspective of an architectural elevation.

5. Height of Elevation. The measurement shall be from the grade to the highest point, except flagpoles and similar spires, of the building or structure wall, including all vertical surfaces and non-vertical surfaces which have a vertical surface above them as shown below.



6. Width of Elevation. The measurement shall be from the outer edges side to side, including all vertical surfaces and non-vertical surfaces which have a vertical surface above them. The following figures illustrate the methods.



16.45.090 Signs in residential zones.

A. Signs Allowed. In the MUR, VTH, R-5, R-7, R-8.5, R-10, R-15, R-20, and R-40 zones, the following signs are allowed:

1. Monument Signs.

a. The sign shall be a permanent monument sign.

b. Signs are only allowed in a recorded subdivision that has been given approval through the planning process of the City of Happy Valley.

c. Signs shall be located on private property, at a subdivision entrance or on a private tract median island within the public right-of-way.

d. Only one sign per public street entrance is allowed.

e. No more than two sides are allowed.

f. Signs shall not extend any higher than six feet above grade, unless located in a private median tract, in which case the height shall not exceed two and one-half feet. In all cases, signs shall comply with the clear vision requirements.

g. When a sign is located in a private median tract, the width of the sign shall not exceed fifty (50) percent of the width of the median measured from curb to curb or, where there is no curb from edge of pavement to edge of pavement, provided the area limitation below is met, and it shall be centered in the median.

h. Sign face area shall not exceed sixty (60) square feet. Sign area shall not exceed twenty (20) feet in length and six feet in height.

i. Indirect illumination is allowed, unless the sign is located in a median, in which case no illumination is allowed.

j. There shall be a minimum of one hundred (100) feet separation from other subdivision signs and all other permanent signs, with the exception of directional signs.

k. All required permits shall be obtained prior to placement of sign.

2. Temporary Signs.

a. Temporary signs shall not be internally or externally illuminated.

b. Temporary signs shall not be located or extend into or over public right-of-way or into the clear vision area with the exception of special event banner signs (please see definitions section for description).

c. Temporary signs shall be maintained and kept neat and clean. Materials shall not be allowed to fade, tear, rip or otherwise become unsightly during the period of installation.

d. Temporary signs shall not be attached to fences, trees, shrubbery, utility poles, or like items. They shall not obstruct or obscure primary signs on adjacent premises. They shall not create a traffic hazard because of distractive character to motorists of any such device or the cumulative effect of all such devices.

e. Temporary signs shall not exceed thirty-two (32) square feet.

f. Only one temporary sign advertising a residential development shall be allowed.

g. The Sign Official shall establish a timeframe for placement for each temporary sign approved at the time of permit issuance.

h. All required permits shall be obtained prior to placement of signs.

16.45.100 Signs in institutional and public use (IPU) zone.

A. Signs Allowed. In the IPU zone the following signs are allowed.

1. Freestanding Signs.

a. Freestanding signs shall be supported by no more than two poles, posts, columns, or similar supports. Guy wires and similar stabilization methods are not permitted.

b. The poles, posts, columns, or similar supports for freestanding pole signs shall be closed to present a round, oval, polygon or similar exterior appearance. Exposed angle-iron supports such as I-beams are not permitted.

c. The poles, posts, columns or similar supports for freestanding pole signs may be covered with a pole-cover as a method of improving the appearance of the support(s).

d. The total width, including any pole-cover, of the poles, posts, columns or similar supports for freestanding pole signs shall be no wider than twenty-five (25) percent of the sign face's width.

e. The poles, posts, columns or similar supports for freestanding pole signs shall be plumb (straight up).

f. No portion of a freestanding pole sign shall extend on or over a building.

g. The surface display area shall not exceed one hundred (100) square feet, with fifty (50) square feet maximum area per sign face.

h. The faces of two-sided pole signs shall be parallel to each other.

i. All required permits shall be obtained prior to placement of sign.

j. One freestanding sign per street frontage is allowed, provided no monument sign exists along the same frontage.

2. Monument Signs.

a. Monument signs shall be erected on grade or set into a hillside. If the monument sign is supported by a pole, the sign shall extend down to within four inches of grade to cover the pole so that no more than four inches of the pole is visible.

b. No more than two sides are allowed.

c. Signs shall not extend any higher than six feet above grade.

d. Signs shall not exceed sixty (60) square feet in area.

e. Only indirect or internal illumination is allowed.

f. Signs shall be placed in accordance with the clear vision area.

g. All required permits shall be obtained prior to placement of sign.

h. One monument sign per street frontage is allowed, provided no freestanding sign exists along the same frontage.

3. Wall Signs.

a. Display surface area shall not exceed two square feet for each lineal foot of the wall on which the sign is erected.

b. One sign per each owned or leased wall is permitted. This shall not exceed four walls of a building.

c. No more than one side is permitted for each sign.

d. Indirect or internal illumination is permitted.

e. All required permits shall be obtained prior to placement of sign.

4. Readerboard Signs.

a. Readerboard signs are allowed in an IPU zone as a part of another sign. The Sign Official may impose conditions of approval regarding the frequency of copy change, the hours of operation, and the method by which the message is changed in order to assure compliance with the standards of this section and this chapter.

b. Readerboard signs shall not exceed twenty-four (24) square feet in size. The readerboard and associated sign shall not exceed the total allowable sign area for the IPU district.

c. The design and placement of the readerboard and associated sign shall not adversely affect vehicular or pedestrian safety.

d. The readerboard and associated sign shall comply with all other requirements of this chapter.

e. Temporary signs shall not exceed thirty-two (32) square feet.

5. Height. The height of any sign in an IPU district shall not exceed ten (10) feet above grade, plus five feet for each two hundred (200) feet, or portion thereof, of street frontage. In no event shall any sign exceed fifteen (15) feet in height.

B. Signs Exempt. In the IPU zone, “gateway” signs erected by the municipal government are exempt from area and height restrictions.

16.45.110 Signs in mixed-use zones and commercial zones.

A. Signs Allowed. In mixed-use, commercial and industrial zones, the following signs are allowed:

1. Wall Signs.

a. Single-Story Structures.

i. Display surface area shall not exceed ten (10) percent wall coverage. There is no limit on the number of signs allowed if within the total permitted wall coverage limit.

b. Single-Story Structures with Multiple Tenants or Businesses.

i. Display surface area shall not exceed two square feet for each lineal foot of the wall on which the sign is erected;

ii. One sign per each owned or leased wall is permitted. This shall not exceed four walls of a building;

iii. Indirect or internal illumination is permitted;

iv. All required permits shall be obtained prior to placement of sign.

c. Total signage for multi-story structures containing single or multiple businesses shall be limited to ten (10) percent wall coverage. There is no limit on the number of signs allowed if within the total permitted wall coverage limit.

2. Freestanding and monument signs, so long as a permit is first obtained as required by this chapter and the following standards are met:

a. Number. One sign shall be permitted for each street frontage of premises, provided minimum lot frontage of thirty (30) feet is met. No sign shall be permitted on the same frontage where there is a projecting or roof sign. Signs on the same premises but on different frontages shall be separated by a minimum of fifty (50) feet distance.

b. Area.

i. Where the street frontage is less than fifty (50) feet, the maximum display surface area shall not exceed fifty (50) square feet, with twenty-five (25) square feet maximum area per sign face;

ii. Where the street frontage is greater than fifty (50) feet but less than two hundred (200) feet, surface display area shall not exceed one hundred (100) square feet, with fifty (50) square feet maximum area per sign face;

iii. Where the street frontage is two hundred (200) feet or greater, the surface display area shall not exceed two hundred (200) square feet, with a maximum area of one hundred (100) square feet per sign face;

iv. In no case shall any sign have a surface display area in excess of two hundred (200) square feet.

c. Projection. Freestanding signs shall not project over a public right-of-way.

d. Clearance. A minimum clearance of ten (10) feet from grade shall be maintained over pedestrian or vehicular areas, fourteen (14) feet over areas of truck access.

e. Horizontal Dimension. The greatest horizontal dimension shall not exceed twenty (20) feet for any freestanding sign.

f. Height. The height of any freestanding or monument sign shall not exceed ten (10) feet above grade, plus one foot per ten (10) feet of street frontage, or portion thereof, in excess of two hundred (200) feet abutting the sign location. In no event shall any sign exceed fifteen (15) feet in height

g. Illumination. Indirect or internal illumination is permitted.

3. Projecting Signs. Projecting signs are allowed so long as a permit is first obtained as required by this chapter and the following standards are met:

a. Number. One projecting sign may be permitted for each business frontage. No projecting sign shall be permitted for the same business frontage where there is a freestanding sign.

b. Area. Sign area shall not exceed sixteen (16) square feet per sign face, with total area of all faces not to exceed thirty-two (32) square feet.

c. Projection. Maximum projection from a building wall shall be four feet. No sign shall project within two feet of the curb line.

d. Vertical Dimension. The greatest vertical dimension of a projecting sign shall not exceed four feet; provided, however, for any reduction in projection, the sign may be increased in height a like distance. The maximum projection above the wall on which the sign is erected shall be one foot, and the visible supporting structure shall be minimized to the greatest extent possible consistent with safe structural support.

e. Clearance. A minimum clearance of eight feet from grade shall be maintained over pedestrian areas, ten (10) feet from grade over vehicular areas and fourteen (14) feet over areas of truck access.

f. Separation. The minimum distance from another projecting sign shall be twenty (20) feet in the same horizontal plane.

g. Projecting Signs on Other Project Structures. Awnings, marquees, canopies, false fronts and wall extensions, safely constructed and approved by the Building Code Official, may extend beyond the limits for projecting signs. Projecting signs on such structure shall not exceed the limits as to number, area, projection, vertical dimension, clearance and separation as provided for any projecting sign. The only exception shall be for those instances in which a projecting structure would prohibit a projecting sign within sight of pedestrians; in these instances, the clearance under the marquee or other permanent structure may be reduced to eight feet.

4. Readerboard Signs.

a. Readerboard signs are allowed in mixed use and commercial zones as a part of another sign or as a stand-alone window sign. The Sign Official may impose conditions of approval regarding the frequency of copy change, the hours of operation, and the method by which the message is changed in order to assure compliance with the standards of this section and this chapter.

b. Readerboard signs that are part of an accompanying sign shall not exceed twenty-four (24) square feet in size. Readerboard signs located within window areas shall not exceed ten (10) square feet in size. The readerboard and associated sign shall not exceed the total allowable sign area for the underlying mixed use or commercial zoning district, a window readerboard sign combined with any other signage shall not exceed the building face signage square-footage allowed by this chapter.

c. The design and placement of the readerboard and any associated sign shall not adversely affect vehicular or pedestrian safety.

d. The readerboard and any associated sign shall comply with all other requirements of this chapter.

16.45.115 Temporary commercial signs and political signs.

A. Temporary commercial signs may include board signs, canvas signs, plastic signs, inflatable signs, banners, flags, balloons, pennants, streamers, etc., subject to the following:

1. Temporary commercial signs shall not be internally or externally illuminated.

2. Temporary commercial signs shall not be located or extend into or over public right-of-way or into the clear vision area with the exception of special event banner signs as defined in this title.

3. Temporary commercial signs shall be maintained and kept neat and clean. Materials shall not be allowed to fade, tear, rip or otherwise become unsightly during the period of installation.

4. Temporary commercial signs shall not be attached to trees, shrubbery, utility poles or like items. They shall not obstruct or obscure primary signs or adjacent premises. They shall not create a traffic hazard because of distractive character to motorists.

5. Temporary commercial signs shall range in size from greater than six square feet to a size not to exceed thirty-two (32) square feet in size.

6. The Sign Official shall establish a timeframe for placement of each temporary commercial sign approved. Approval periods shall not exceed sixty (60) days in one calendar year. The sign shall be removed at the end of the approval period. Any costs associated with temporary commercial sign removal by the City shall be at the expense of the sign owner.

7. All required permits shall be obtained prior to placement of temporary commercial signs, unless exempted by this title.

B. Temporary political signs may include wooden board signs, canvas signs and banner signs subject to the following:

1. Temporary political signs shall not be internally or externally illuminated.

2. Temporary political signs shall not be located or extend into or over public right-of-way or into the clear vision area.

3. Temporary political signs shall be maintained and kept neat and clean. Materials shall not be allowed to fade, tear, rip or otherwise become unsightly during the period of installation.

4. Temporary political signs shall not be attached to trees, shrubbery or utility poles. They shall not obstruct or obscure primary signs or adjacent premises. They shall not create a traffic hazard because of distractive character to motorists.

5. Temporary political signs shall range in size from greater than four square feet to a size not to exceed thirty-two (32) square feet in size at a four-foot by eight-foot dimension.

6. Temporary political signs shall be permitted for a timeline of thirty (30) days prior to any given election to seven days post the election outcome. Any costs associated with temporary political sign removal by the City shall be at the expense of the candidate.

16.45.120 Signs in Sunnyside Village.

A. Village Townhouse (VTH). See Section 16.60.070, Signs in residential zones.

B. Village Commercial (VC).

1. South of the designated accessway, only hanging, on-building, or monument signs shall be used. Hanging signs shall be eight square feet maximum, with eight-foot pedestrian clearance.

C. Village Office (VO).

1. Signs in the village office district shall have a maximum of two colors in addition to black and white.

2. Only hanging, on-building, or monument signs shall be used. Hanging signs shall be eight square foot maximum, with eight-foot pedestrian clearance. Monument and on-building signs twenty-four (24) square foot maximum.

3. Except for neon signs, all illumination shall be external.

16.45.130 A-frame signs.

A. Within all mixed-use employment, mixed-use residential multifamily, and mixed-use commercial zones, A-board signs shall be permitted subject to the following criteria:

1. May be displayed outdoors during business hours only and shall be removed at the end of the business day.

2. The sign is placed within four feet of the main entrance to the building or individual business entry.

3. Sign placement shall not interfere with pedestrian or vehicular traffic nor with on-street parking and shall have a minimum of five feet of unimpeded pedestrian sidewalk maneuvering space for accessibility. It shall not extend into clear vision areas or vehicular circulation areas. The sign shall not be attached to fences, trees, shrubbery, utility poles or like items and shall not obstruct or obscure primary signs on adjacent premises.

4. Sign area is limited to twelve (12) square feet per face.

5. The applicant provides a notarized statement acceptable to the City assuming liability for a sign on a public sidewalk.

6. No more than one sign per street level business is permitted.

7. Shall be constructed of wood, chalkboard and/or finished metal. Lettering may be painted or handwritten. Readerboards are not permitted.

8. Shall be non-illuminated.

16.45.140 Nonconforming signs and their removal.

A. A sign that was lawfully erected and maintained as of the date of the adoption of this Zoning Ordinance, but which does not meet the requirements of this chapter, shall be regarded as a lawful nonconforming sign if a permit for the same is obtained under this section. The sign may be continued for a period not to exceed ten (10) years from the date of adoption of this section for the

purpose of amortization of investment. A person may request a longer amortization period by following the variance procedures of Chapter 16.71 of this Code. The variance application must demonstrate that the applicant requires a longer period in which to amortize its investment in the sign in question. In the case of an application for a longer amortization period for an alleged nonconforming billboard, the applicant must prove, at a minimum, that the sign structure cannot reasonably be used for a sign with an area smaller than three hundred (300) square feet.

B. Signs located on premises annexed into the City after the effective date of this Zoning Ordinance and which signs do not comply with the provisions of this Code, shall be brought into compliance with the this Code within a period of time not to exceed six months after the effective date of annexation; provided, however, that a landowner may, within thirty (30) days of annexation, request a variance as provided in subsection A of this section.

C. Any sign which is structurally altered, relocated or replaced shall immediately be brought into compliance with all applicable provisions of this chapter; provided, however, that a landowner may, within thirty (30) days of annexation, request a variance as provided in Chapter 16.28.

D. All existing signs or portions thereof prohibited in Section 16.45.050, except as provided in subsection A of this section, shall be removed or altered to comply within six months from the date of adoption of this Zoning Ordinance.

E. Within one year from the date of adoption of this Code, the Sign Official or an authorized representative may inspect any sign regulated hereunder. The Sign Official shall have right of reasonable entry onto private premises to enforce the provisions of this chapter. After inspection, a notice shall be issued to the owner of the sign or property that lists the signs and identifies those signs which, in the opinion of the Sign Official, need repair or modification to bring them into compliance with this chapter and those which are in violation of the provisions of this chapter and must be removed, including the expiration of the grace period for the particular sign. The Sign Official may repeat such on-site inspections, with reasonable notice, from time to time as deemed necessary to enforce the provisions of this chapter.

F. Any sign regulated under this chapter found to be in violation of this chapter shall be deemed a nuisance. Violation of the provisions of this chapter shall constitute a civil infraction, subject to code enforcement procedures of the City.

16.45.150 Violation—Penalty.

A. In addition to any other provisions hereof, it is unlawful and a public nuisance for any person to maintain a sign or advertising structure in violation of the provisions of this chapter. Violation of any provision of this chapter is subject to the code enforcement procedures of the City.

B. Signs in violations of this chapter which create a safety or traffic hazard, are located within the public right-of-way, or are located on a utility pole within the public right-of-way may be removed by the City without prior notice and are subject to the code enforcement procedures of the City.

Chapter 16.46 HAPPY VALLEY STYLE DESIGN STANDARDS

16.46.010 Happy Valley Style design standards.

A. Purpose. The purpose of the Happy Valley Style design review standards is to guide building siting and design and to promote a comprehensive identity for nonresidential developments within

the community that are three stories or below in height through the application of the Happy Valley Style (Appendix B) and the standards of Chapter 16.46 so that:

1. The location, size, shape, height and spatial and visual arrangement of the uses and among buildings, building entrances, existing and proposed structures are compatible with each other, with consideration given to increased setbacks, building heights, shared parking, common driveways and other similar design considerations; and

2. That there are interrelationships between transit stops, transit facilities and routes, parking and loading areas, vehicular and pedestrian circulation, open spaces, landscaping and related activities and uses on the site.

B. Relationship to Other Standards. The standards of this section apply in addition to other standards of this title. Where standards in this section conflict with standards in other sections of this Code, the standards of this section shall govern.

C. Applicability.

1. The Happy Valley Style design standards apply to all mixed-use commercial, retail commercial, office and institutional office buildings that are three stories in height or less, except as exempted in subsection D of this section.

2. New buildings shall be designed using building design elements of the Happy Valley Style to create distinctive buildings with richly textured, visually engaging façades and that are pedestrian friendly. Expansion or substantial exterior remodeling of existing nonresidential development which is greater than fifty (50) percent of the building's gross floor area shall be designed to maintain or increase the building's overall compliance with the Happy Valley Style standards.

3. Buildings that are greater than three stories in height are encouraged to utilize practical design elements from the Happy Valley Style.

D. Exemptions to the Happy Valley Style.

1. Residential dwellings, including residential care facilities, are exempt from the standards of Chapter 16.46. However, single-family attached and/or multifamily dwellings and residential care facilities are encouraged to utilize the Happy Valley design standards.

2. Master Plan areas over ten (10) acres in size within the employment district of the Rock Creek employment area containing specific design standards.

3. Buildings designed for military or related uses; manufacturing or other industrial uses; non-institutional buildings in the Hwy. 212/224 Industrial Corridor (west of 135th Avenue); and small institutional buildings such as maintenance sheds, pump stations, wireless communication facilities shelters, etc., as determined by the Planning Official.

4. Institutional office buildings and schools are exempted from Section 16.46.010.H.2 (Storefront Appearance for Commercial and Office Buildings).

E. Character of the Happy Valley Style. As described in more detail in Section 2 of Appendix B, the Happy Valley Style promotes a residential character for projects by drawing on features from certain historical architectural styles as well as through the use of complex massing and varied rooflines. Materials of the Happy Valley Style draw on the Pacific Northwest's natural resource heritage. Equally important to incorporating a residential character, the Happy Valley Style also promotes a pedestrian friendly environment, using façade design that creates a storefront appearance

at the ground level. The overall development pattern should contribute to a sense of arrival and departure to and from the City core. Happy Valley's unique topography and natural features should be incorporated into project design where feasible. While it is influenced by historic architectural styles, the goal of the Happy Valley Style is not a literal replication of historic residential buildings, but appropriate contemporary interpretation of time-tested and proven design principles. The Happy Valley Style is also flexible enough to allow for variety, acknowledging different needs and preferences of various uses. Projects do not need to include all features that make up the Happy Valley Style. However, projects should reflect the Style's characteristic elements in varying combinations.

F. Pedestrian-Oriented Building Siting Standards. In order to orient buildings to the pedestrians walking on the pedestrian network and to activate the pedestrian environment and emphasize pedestrian movements, development shall meet the minimum standards in this section. Additional recommendations for pedestrian-oriented building siting are included in Section 3 of Appendix B:

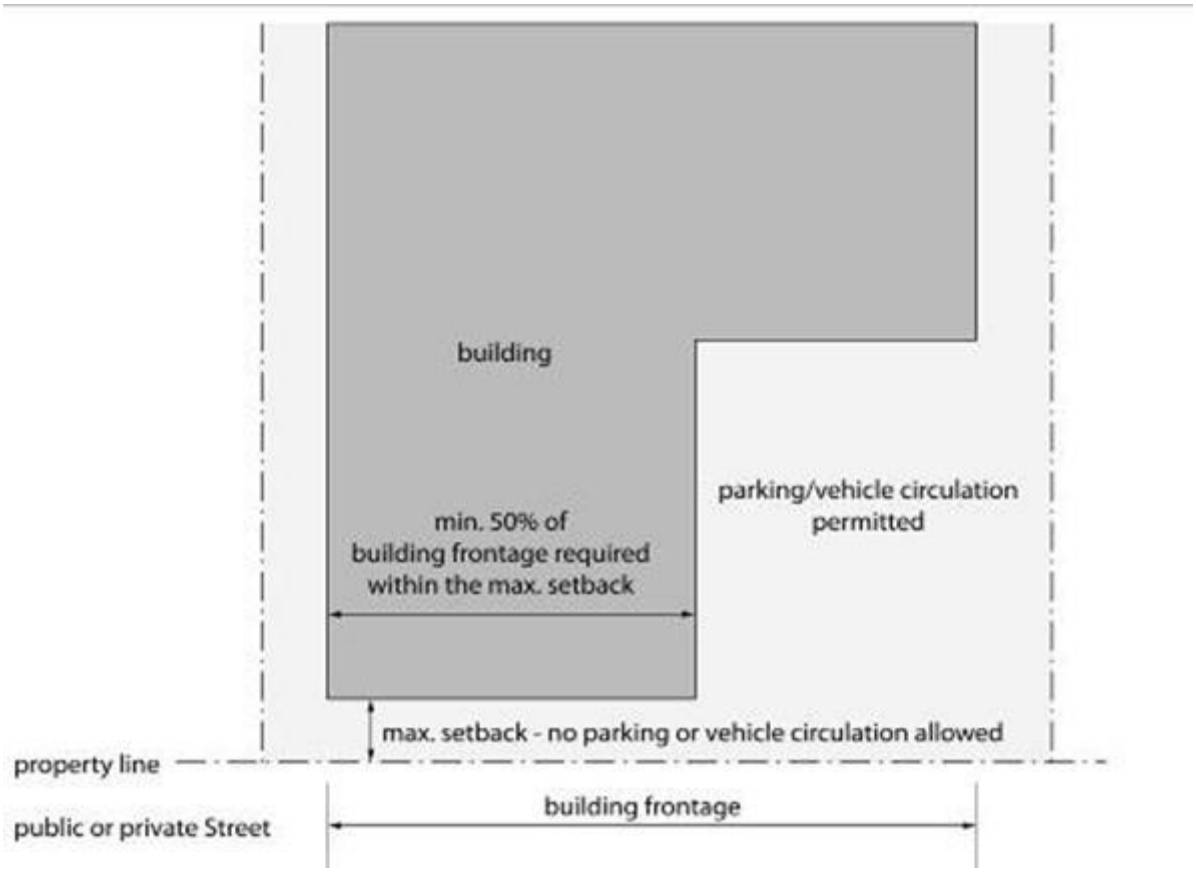
1. Maximum Setback.

   a. At least fifty (50) percent of the building frontage must meet the maximum setback of eight feet from a property line along a public or private street.

   b. Surface parking facilities and vehicular circulation facilities, such as driveways and queues, are prohibited between the fifty (50) percent of the building frontage regulated by this section and the public or private street.

2. Multiple Frontages. In scenarios involving multiple frontages, the developer shall have the option to designate and orient the front, side and rear façades of a structure. In no case shall buildings be required to have dual front façades. However, where development is proposed on a corner lot, buildings shall be located to preserve or create strong building edges at public or private street corners.

Figure 16.46.010-1: Maximum Setback



3. Exceptions. The Design Review Board may approve an exception to the maximum setback standards in the circumstances described in subsections (a) through (d), below, provided the exception is the minimum necessary and the proposed design accomplishes the intent of the Happy Valley design standards. Where the proposed adjustment will allow parking or vehicle circulation between the building and the street, the building shall include a pitch roof, high quality materials and other design elements to ensure that the intent of the Happy Valley design standards is achieved.

a. The proposed building is interior to a development site and the maximum setback is met by other buildings on the site.

b. An increase in the maximum setback is necessary for the protection of natural resource, or to accommodate topographic constraints or required utility easements.

c. To allow for the placement of pedestrian amenities within the maximum setback, including, but not limited to, seating areas, water features, and plazas. Plazas shall include construction materials that differ from the surrounding sidewalk, and shall be approved by the Design Review Board. Materials include (but are not limited to), paving bricks, stamped concrete, etc.

d. The proposed building has been oriented to a private street which has been designed and built to function as a public street.

G. Building Massing.

1. Complex Massing Required. New buildings shall use massing characteristic of the Happy Valley Style and asymmetrical composition to avoid the monolithic expanse of frontages and roof lines and break up building sections using elements including variable planes, projections, bays, dormers, setbacks, canopies, awnings, parapets, changes in the roof line, materials, color, or textures (see 4.1, Appendix B).

2. Street Corners. Where development is proposed on a corner lot, the following standards shall be met:

a. Buildings shall be designed to preserve or create strong building edges at public street corners (see 4.2, Appendix B).

b. Buildings shall reinforce street corners by repeating façade elements such as signs, awnings and window and wall treatments on both sides of the building facing the corner.

c. Buildings located on public street corners shall contain an architectural corner element which exceeds the eave height of the primary roof by at least five feet (see Figure 16.46.010-2). If the façade of the corner element exceeds twenty-five (25) feet in height, then windows are required to provide the appearance of a habitable second story (see Figure 16.46.010-3). Additional façade details such as cornice lines and material changes are encouraged.

Figure 16.46.010-2: Typical Corner Element

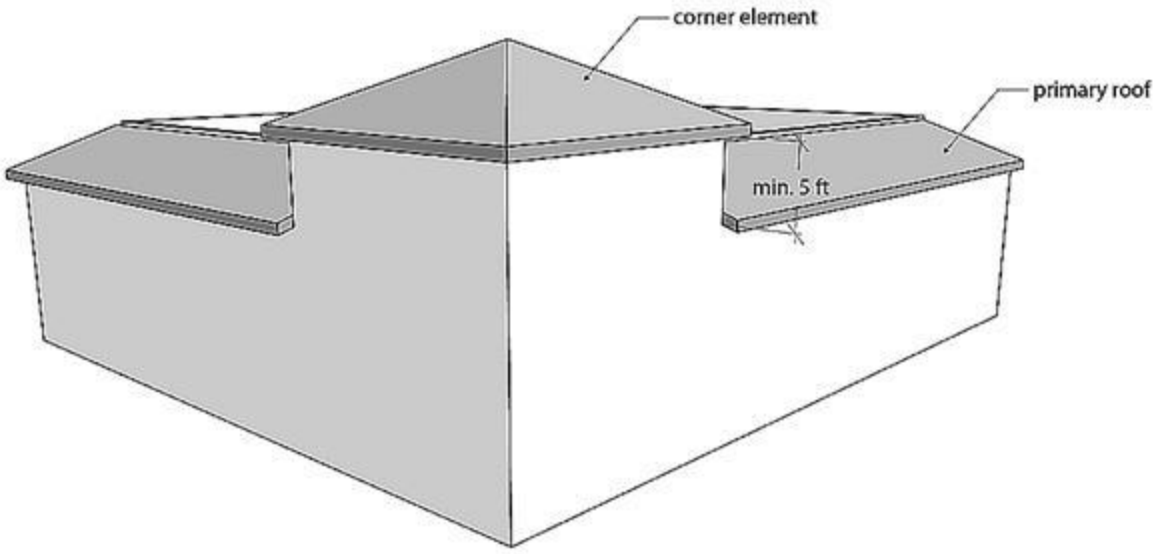
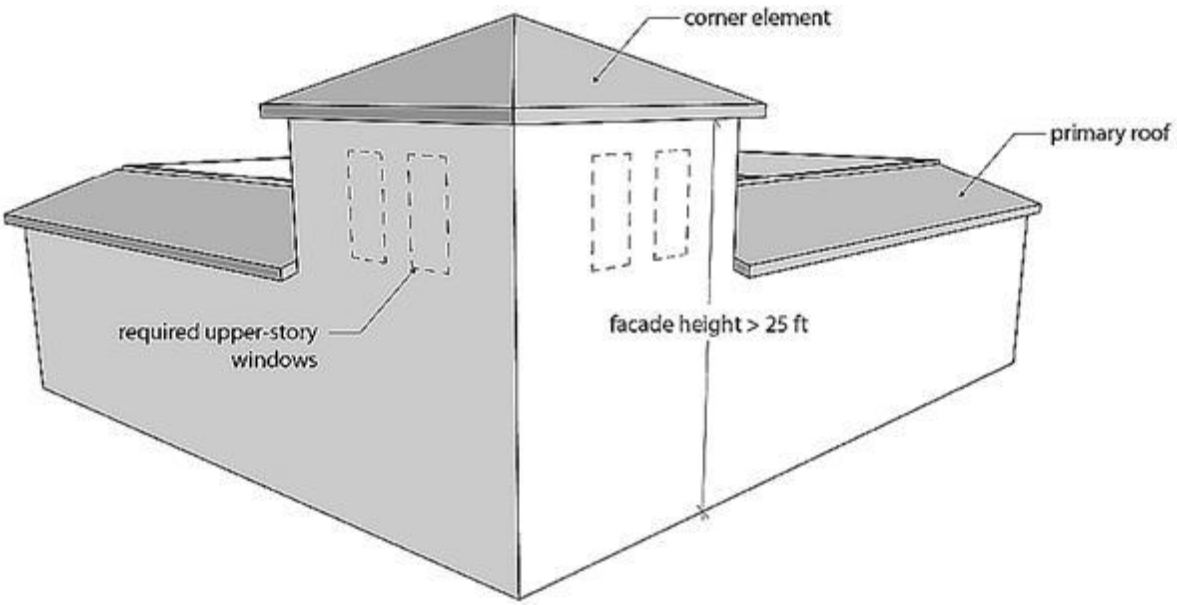


Figure 16.46.010-3: Two-Story Corner Element



d. Two-story building elements, which shall be located to reinforce the corner, include, but are not limited to:

i. Tower;

ii. Enclosed porch;

iii. Entrance pavilion.

3. Roof Forms.

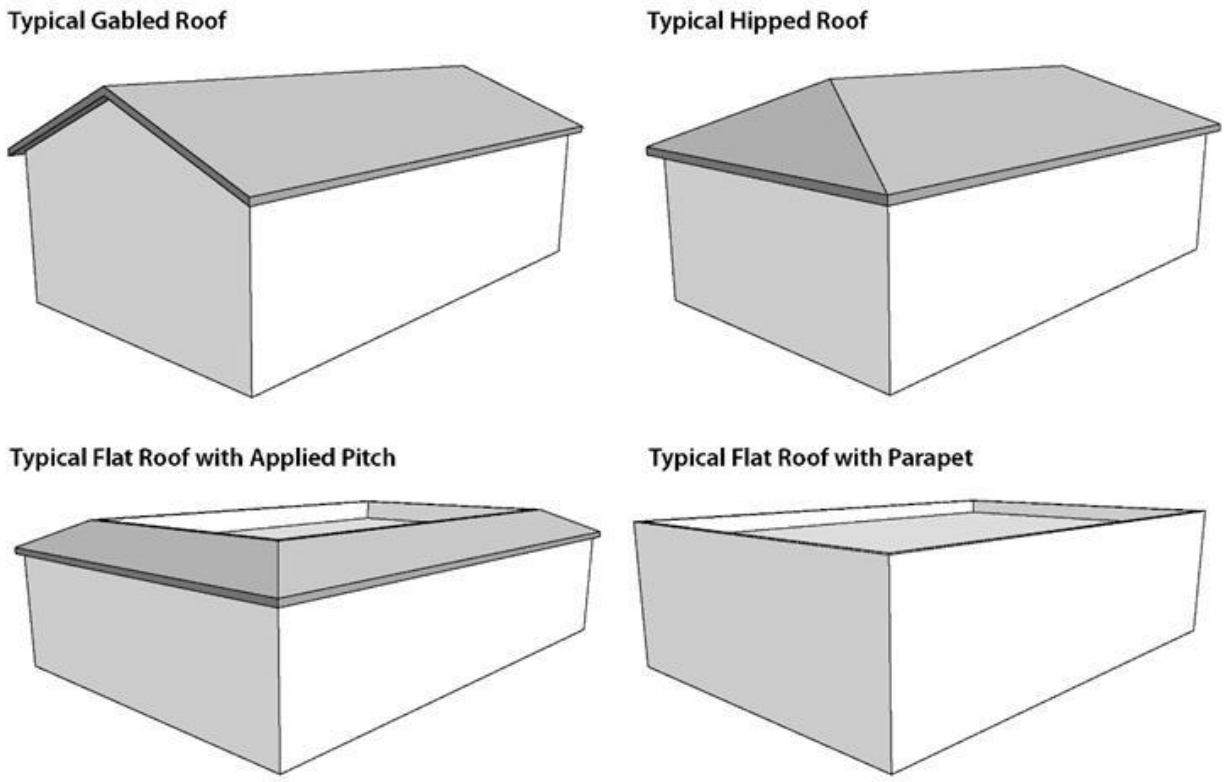
a. Roof forms shall promote architectural diversity and interest (see 4.3, Appendix B). While pitched roofs are desired to support Happy Valley Style's residential character, larger building footprints make flat roofs often the only practical solution. However, the edges of flat roofs can be articulated to make large buildings more compatible with the desired character. To address the wide range of building sizes permissible in nonresidential developments, the roof standards are divided into two distinct types based on building size.

b. Roofs shall meet the following standards:

i. Building footprints five thousand (5,000) square feet in size or smaller are required to have pitched (gabled or hipped) roofs or flat roofs with an applied pitch;

ii. Building footprints greater than five thousand (5,000) square feet in size may have pitched (gabled or hipped) roof or flat roofs with either an applied pitch or parapet, per the requirements found in subsection d (Requirements for flat roofs), below.

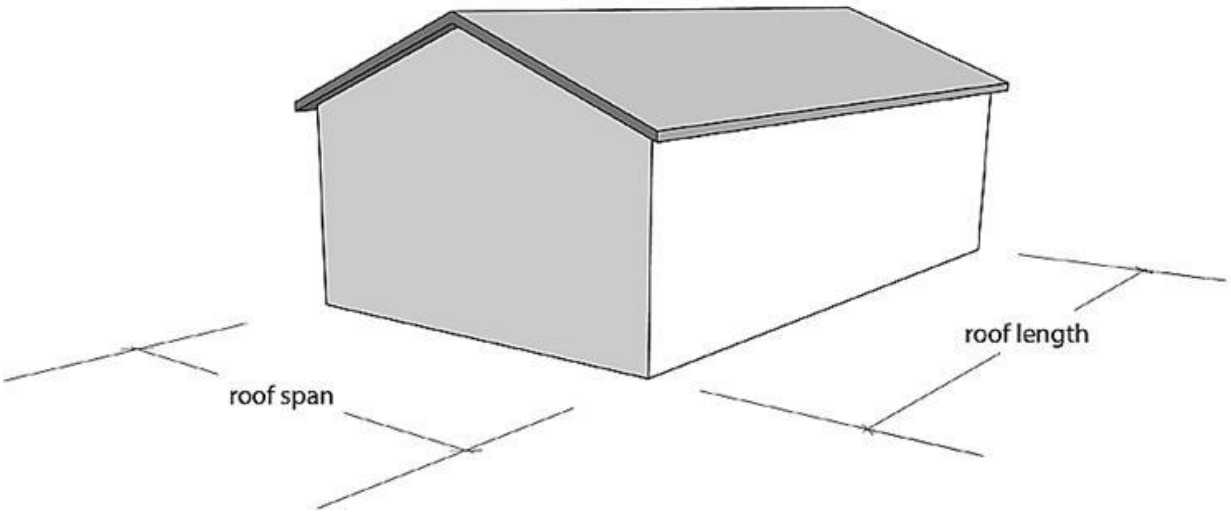
Figure 16.46.010-4: Typical Roof Forms



c. Requirements for Pitched or Applied Pitch Roofs. Dormers, cupolas and similar roof elements that break up and project from the primary roof shall be provided to create variety to the massing of structures and relieve the effect of a single, long roof. Secondary roof elements shall be provided in the quantity specified below. Secondary roof elements may be located anywhere on the roof, although groupings and orderly arrangements are preferred. Roof length is the longer horizontal distance between the outside faces of the walls supporting the roof. In contrast to roof length, for the purpose of these standards, the roof span is the shortest horizontal distance between the outside faces of the walls supporting the roof.

Roof Length	**Number of Secondary Roof Elements**
Less than 30 feet	None required
30—45 feet	1
46—90 feet	2
91 feet and greater	4

Figure 16.46.010-5: Roof Span and Length



d. Requirements for Flat Roofs.

i. All rooflines (span or length) facing a public street or clearly visible from a public right-of-way shall be detailed with either an applied pitch or parapet, as follows:

(A) Applied Pitch. An "applied pitch" gives a flat roof the general appearance of a pitched roof in terms of materials, pitch, and overhang, but does not extend all the way from the eave of the building to the ridge of the roof as a typical pitched roof.

At a minimum, the applied pitch shall:

(1) Extend at least eight feet horizontally from the eave on buildings of five thousand (5,000) square feet in size or smaller.

(2) Extend at least twelve (12) feet horizontally from the eave on buildings greater than five thousand (5,000) square feet in size.

The applied pitch shall extend vertically above the plane of the flat roof sufficiently to effectively screen all roof mounted equipment from public viewpoints. The slope of the applied pitch shall be consistent across the entire span. Breaks in the roof pitch to create a mansard or bonnet roof effect where the lower portion of the roof is steeper or less steep than the upper portion are not permitted.

Figure 16.46.010-6: Flat Roof with Applied Pitch—Overview

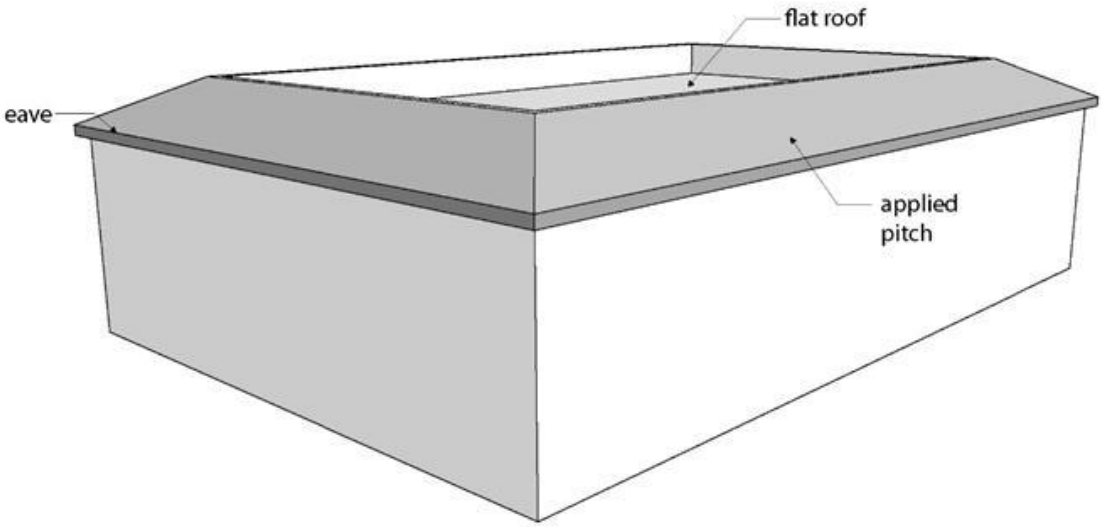
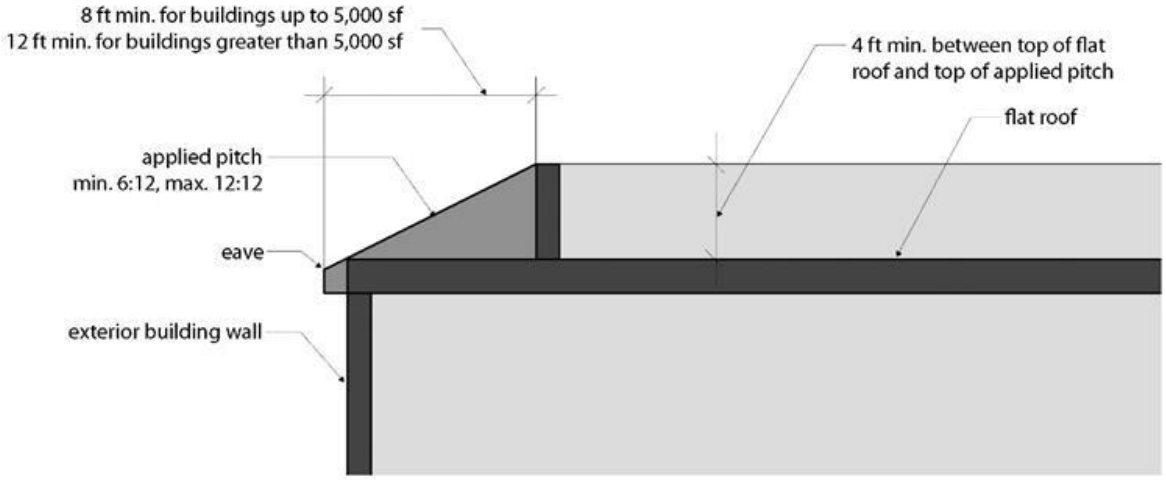
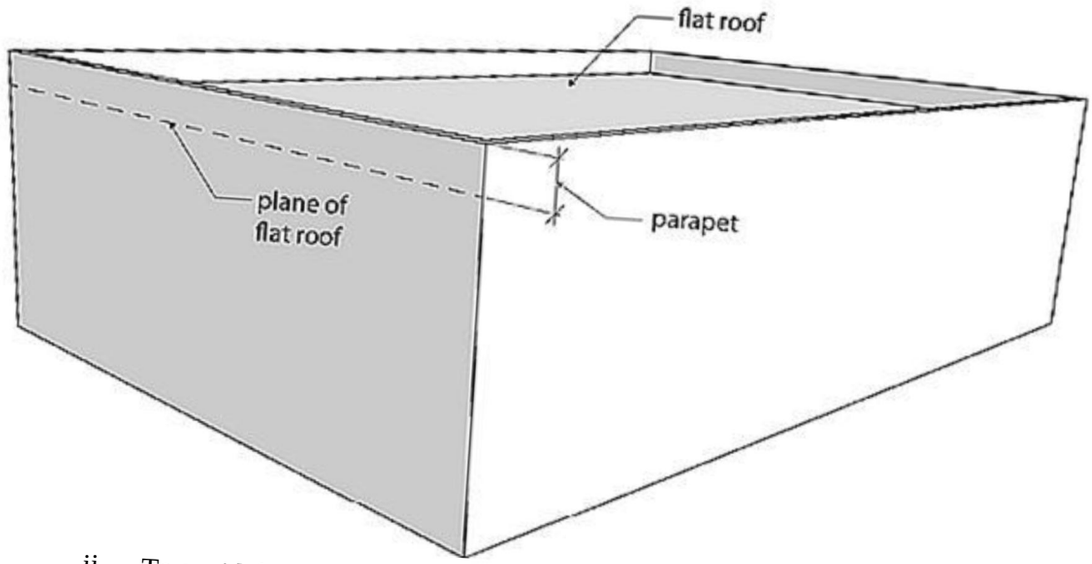


Figure 16.46.010-7: Flat Roof with Applied Pitch—Detail



(B) Parapet. A parapet is a vertical extension of the façade above the plane of a flat roof. The parapet shall extend vertically above the plane of the flat roof sufficiently to effectively screen all roof mounted equipment from public viewpoints. The parapet may have a simple edge or may be adorned with an articulated cornice. The parapet may, but is not required to, be distinct from the façade in terms of materials.

Figure 16.46.010-8: Flat Roof with Parapet



ii. To avoid the effect of a single, long roofline and to create a variety to the massing, variations to any roofline (span or length) facing a public street or clearly visible from a public right-of-way shall be provided at intervals of forty-five (45) feet or less. These variations may be achieved through combination of the following techniques:

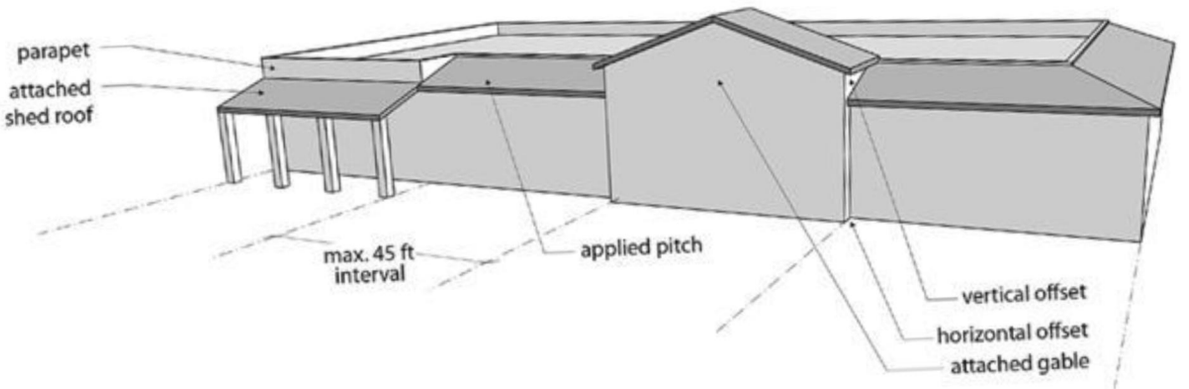
(A) Vertical Offset. Change in the height of the eave by at least three feet.

(B) Horizontal Offset. Change in the horizontal position of the eave of at least three feet.

(C) Varying use of parapet and applied pitch roof edges.

(D) Attached or Applied Shed, Gable, or Hip. Building elements that are attached to a building's façade and covered with a shed roof, a gabled roof, or a hipped roof may be used to articulate the roofscape and break up the perceived façade length. Those building elements can be used in combination with parapets or applied pitches and may include covered walkways or porches, vestibules or covered entrances, bays projecting from the building façade, tower elements projecting above the primary roof line.

Figure 16.46.010-9: Roofline Variations for Flat Roofs



e. The Design Review Board may approve a modification of this standard only where the building façade otherwise provides the variations and offsets necessary to avoid a monolithic appearance.

H. Building Design.

1. Entrances.

a. To encourage increased pedestrian activity on public and private streets and sidewalks, primary building entrances should be oriented to, or be at an angle no more than forty-five (45) degrees from the street (public or private), to the maximum extent practicable. For multi-tenanted buildings or buildings with multiple entrances, or both, only one primary entrance must comply with this standard. In addition, for buildings with multiple frontages, only one primary entrance on one building frontage must comply with this standard (see 5.1, Appendix B).

b. Primary building entrances shall be architecturally emphasized.

2. Storefront Appearance for Commercial and Office Buildings. Commercial and office buildings fronting on public or private streets shall create a storefront appearance on the ground floor by implementing the following standards:

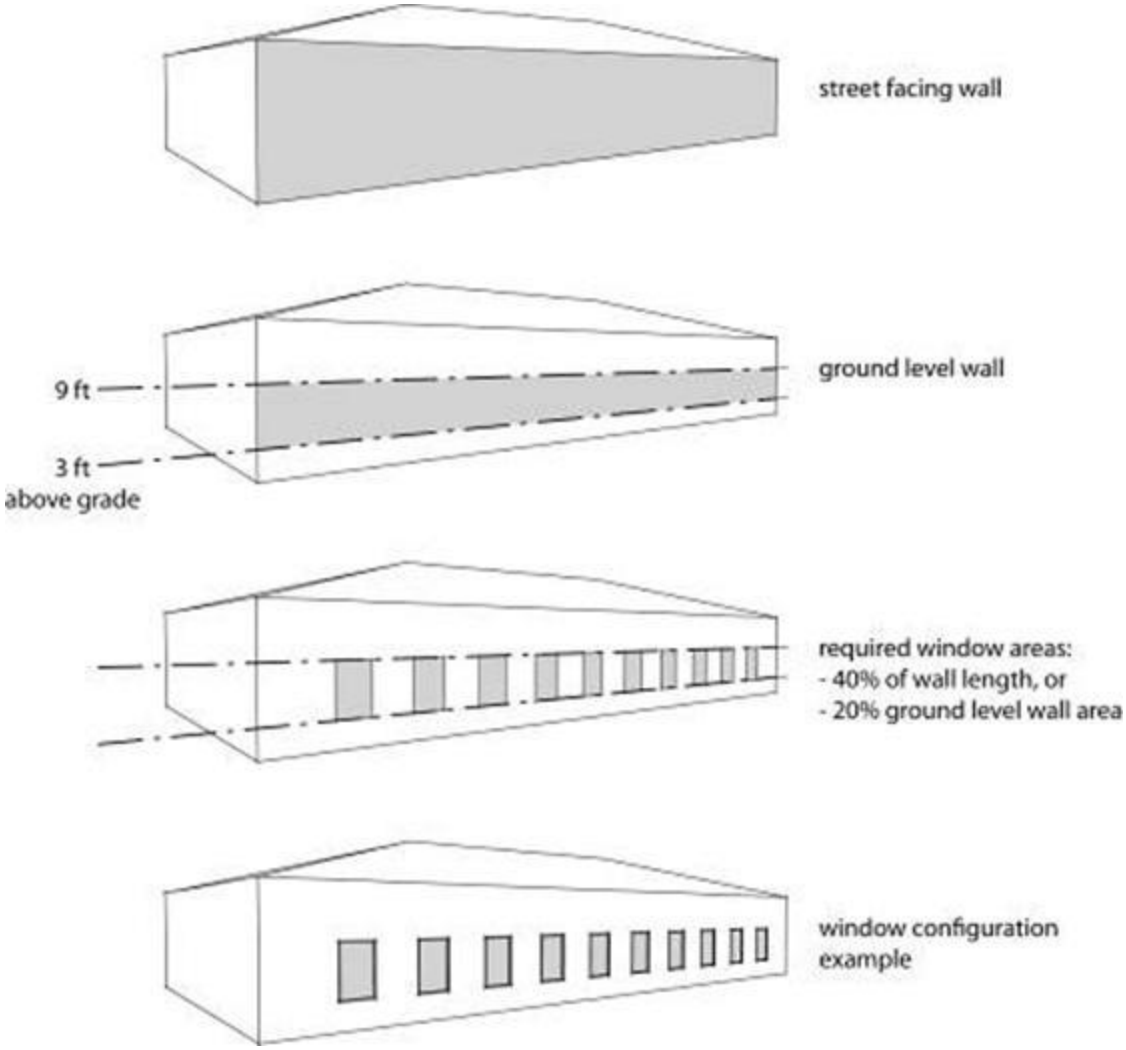
a. Changing buildings planes, materials or window patterns, or by creating a break in awning or canopy construction at intervals not exceeding forty (40) feet in length; and

b. Ground Floor Windows. To avoid blank walls and create a storefront appearance at the ground level, exterior building walls facing a public or private street shall incorporate ground floor windows.

i. Required Window Areas. Windows must be a minimum of forty (40) percent of the length and twenty (20) percent of the ground level wall area. Ground level walls include all exterior walls from three feet above finished grade up to nine feet above the finished grade.

ii. Qualifying Window Features. Required window areas must either be windows that allow views into working areas or lobbies, pedestrian entrances, or display windows set into the wall. Display cases attached to the outside wall do not qualify. The bottom of the windows must be no more than three feet above the adjacent exterior grade.

Figure 16.46.010-10: Required Window Area



3. Façade Design.

a. Buildings shall include changes in relief on façades facing public or private streets for pedestrian interest and scale. Relief changes may include (see 5.2, Appendix B):

i. Cornices;

ii. Bases;

iii. Fenestration;

iv. Fluted masonry;

v. Other treatments.

b. Buildings with two or more stories shall have a strong ground floor cornice designed to separate the ground floor functions and materials from the upper story or stories and to provide continuity with cornice placement on abutting buildings (see 5.2, Appendix B).

c. Ornamental Devices. Ornamental devices characteristic of the Happy Valley Style, such as molding, entablature and friezes, are required at the roofline. Where such

ornamentation is present in the form of a linear molding or board, the band must be at a thickness in proportion to the height of the wall (see 5.2, Appendix B).

4. Awnings and Weather Protection.

a. Except as required by subsection (H)(4)(b), buildings shall provide awnings or canopies extending a minimum of two feet from window walls (see 5.2, Appendix B). Awnings may have a front valance.

b. Where window walls are adjacent to walkways, buildings shall provide awnings or canopies for weather protection extending a minimum of six feet from window walls (see 5.2, Appendix B). Awnings may have a front valance.

c. Weather protection shall be provided at building entries/exits extending a minimum of six feet from the entry/exit.

5. Materials. Building materials shall reflect the Happy Valley Style (see 5.3, Appendix B). Exterior colors shall have earth-tone shades, such as gray, tan, brown, rust, green, red, etc.

a. Primary Materials. A "primary material" is the predominant building material that covers a minimum of sixty (60) percent of the building's exterior walls. Acceptable primary materials are identified in Table 16.46.010-1.

b. Secondary Materials. A "secondary material" is not the predominant building material. Any one secondary material shall not cover more than forty (40) percent of the building's exterior walls. Acceptable secondary materials are identified in Table 16.46.010-1.

c. Base Materials. The building base shall be defined as the lower portion of a wall just above where it meets ground, often an extension of the foundation wall above grade. For the purpose of these standards, the base shall not extend beyond twenty-four (24) inches above grade. The base typically is exposed to water for extended periods and is at higher risk of physical impacts. Consequently, the base materials may differ from the materials used for the remainder of the façade in order to withstand these conditions. Base materials are identified in Table 16.46.010-1. Use of these materials shall be limited to the building base unless the material is also identified as an acceptable primary or secondary material. Where a foundation wall extends beyond twenty-four (24) inches above grade, for instance on a sloped site, the portion of the foundation wall above twenty-four (24) inches shall be finished with permitted primary and/or secondary materials. In all cases, foundations and base materials shall be designed to match the scale of the building being supported.

Table 16.46.010-1: Building Materials

Materials	Allowed on Façade*		
	Primary	Secondary	Base
Masonry, which includes natural and natural-looking stone, and rusticated brick or split-faced, colored	Yes	Yes	Yes

Materials	Allowed on Façade*		
	Primary	Secondary	Base
concrete blocks that are residential in character and appearance			
Wood board siding or wood shingles. Fiber cement boards or fiber reinforced extruded composite boards are also acceptable provided they have the appearance of natural wood	Yes	Yes	No
Architectural grade plywood, fiber cement, or wood composite panels (T1-11 plywood or OSB siding are not permitted)	No	Yes	No
Glass (except mirrored glass)	Yes	Yes	No
Typical commercial-grade stucco	No	Yes	Yes
Typical commercial-grade brick	No	Yes	Yes
Vertical, ribbed, non-corrugated, non-anodized aluminum metal or steel siding that is residential in character and appearance through variation in texture, stamping or offsets in elevation or material	No	Yes	No
Cast-in-place or pre-cast concrete	No	No	Yes
Plastic, except when used to replicate old styles (e.g., vinyl clad windows, polyurethane moldings, plastic columns, etc.)	No	No	No
Vinyl siding	No	No	No
Mirrored glass	No	No	No
Corrugated metal or fiberglass	No	No	No
Standard form concrete block (not including split-faced, colored or other block designs that mimic stone, brick or other similar masonry)	No	No	No
Back-lighted fabrics, except that awning signs may be backlit fabrics for individual letter or logos	No	No	No

* Materials for architectural accents and details (e.g., window frames, trim) are exempt from this requirement.

Figure 16.46.010-11: Building Base on Flat Site

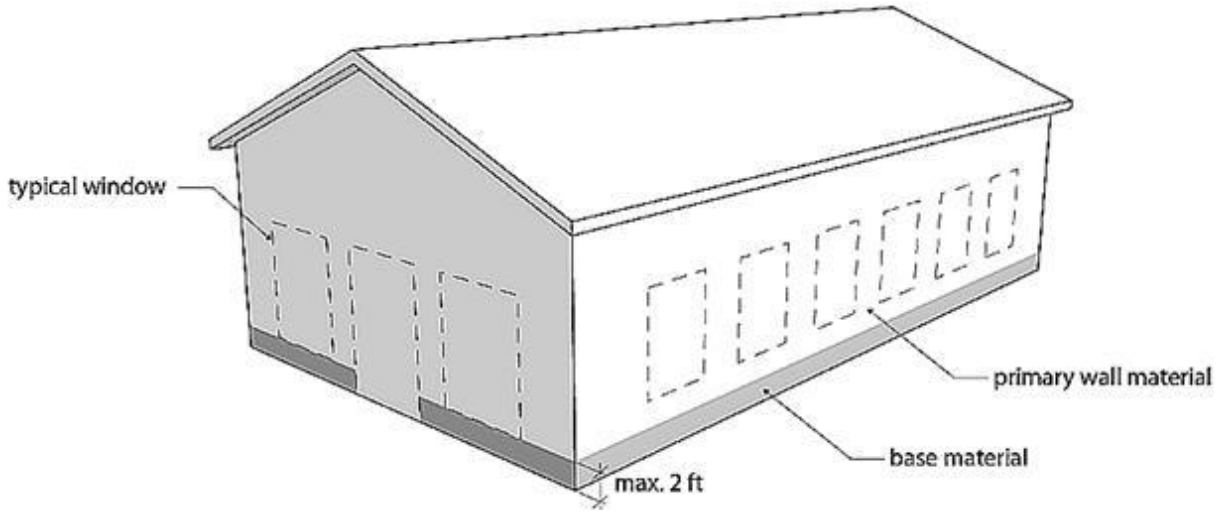
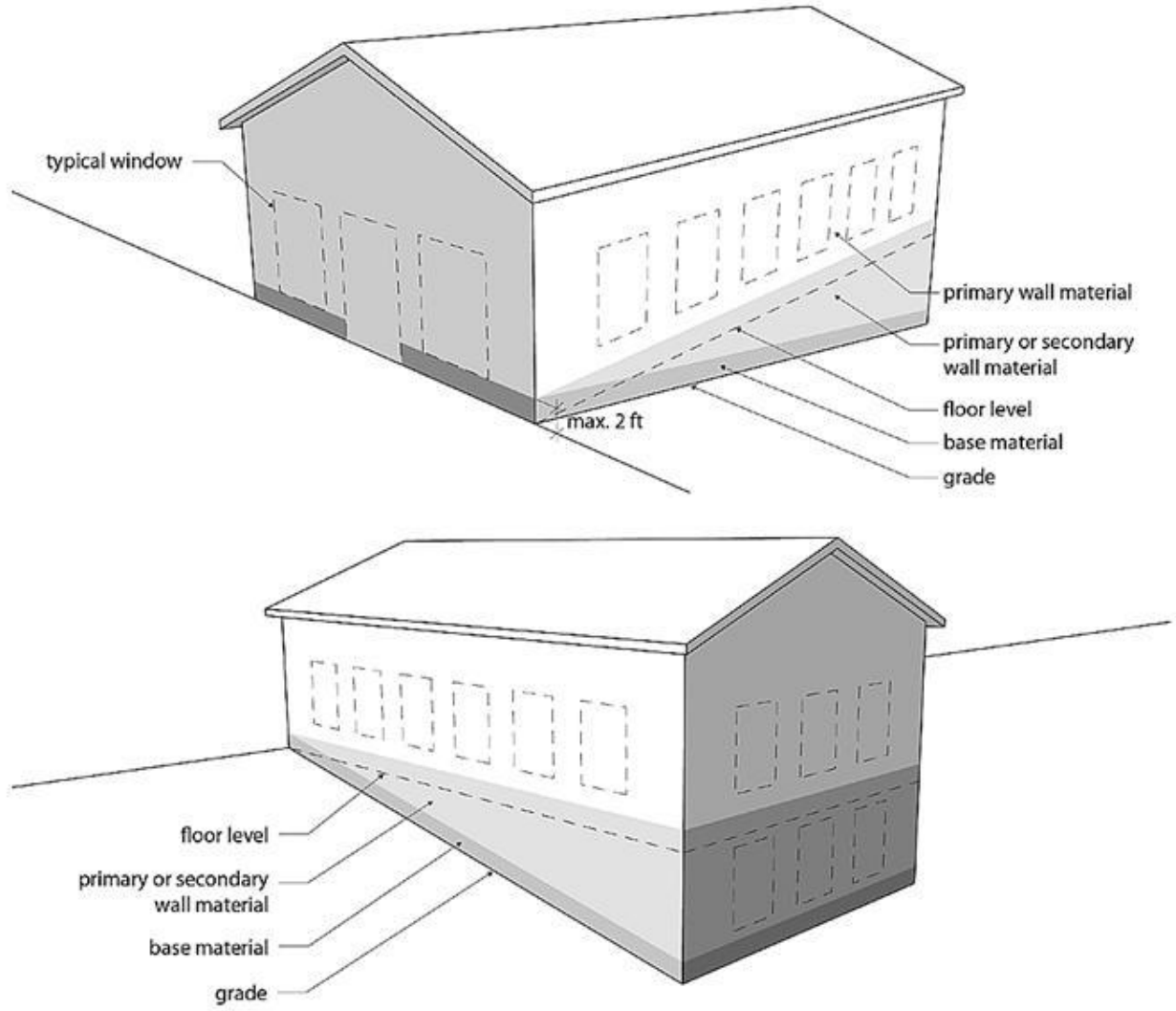


Figure 16.46.010-12: Building Base on Sloped Site



d. Multiple-Story Buildings. When buildings have two or more stories, the material used at the ground level shall differ from that used at upper levels in order to create a clear distinction between the ground and upper levels.

e. Roof. New buildings or substantial remodeling that involve modifications to the roof shall use the following roofing materials:

i. Slate, tile, shakes or wood shingles, or synthetic materials (e.g., concrete, pressed wood products, metal or other materials) that are designed to and do appear to be slate, tile, shake or wood shingles.

ii. If a new or remodeled building utilizes a flat roof, materials that will not cause roof repairs (patching) to be readily visible.

6. Enclosure or Screening of Mechanical Equipment and Other Appurtenances.

a. Roof mounted mechanical equipment on flat roofed structures shall be screened by parapet walls to the maximum degree possible. Site located mechanical equipment shall be installed in below grade vaults where possible or screened by a site obscuring fence or landscaping. Other building mounted mechanical equipment shall be screened from view to the maximum degree possible.

b. Trash enclosures shall be located away from the primary vehicular and pedestrian entries and shall be screened by a site obscuring fence or landscaping.

7. Parking Structures. A proposed parking structure or garage shall comply with the following design standards:

a. Retail storefronts at the ground level of parking structures shall be located at the periphery of parking areas and structures. The street side of residential parking structures may contain facilities or services for residents, such as laundry rooms, lobbies, or exercise rooms.

b. Building materials shall complement abutting building materials.

c. In cases where a parking structure extends to the periphery of a site, the design of the structure shall reflect the massing, fenestration and detailing of adjacent and abutting buildings.

d. Architectural elements such as a frieze, cornice, trellis or other device, shall be continued from a residential portion of the building onto a parking structure (see 5.2, Appendix B).

e. Entries shall be designed to be subordinate to the pedestrian entry in scale and detailing. If possible, parking structure entries shall be located away from the street, to the side or rear of the building.

f. If possible, parking structures should be designed so that portions of the parking structure decks are used for landscaping or entry courts to abutting buildings.

g. Parking structures shall be detailed at ground level in a manner similar to adjacent or abutting buildings in order to create a strong/emphasized base.

I. Landscape/Hardscape Design. The following standards apply in addition to the landscaping standards in Chapter 16.42.

1. Where new or substantially remodeled buildings are set back from property lines and sidewalks, intervening landscaping shall be designed to invite the public in, not to provide separation.

2. Where non-pedestrian space is placed between a building and a sidewalk, benches, low sitting walls or other street furniture shall be placed in order to enliven the sidewalk.

3. Small areas of landscaping and paving in courtyards, entryways, building nooks and other areas shall use materials and designs similar to adjacent public spaces where such use will make the area appear larger or more inviting. This requirement is intended to minimize the transition from public to private space, but is not intended to restrict changes in material where it is functionally necessary or where it will avoid visual monotony.

4. Drinking fountains, display windows or other street furniture shall be located in stopping areas created outside of pedestrian circulation areas. Stopping areas may be created by an enclosure, a change in grade or a change in paving materials.

5. Decorative iron gates and hangers for signs, flags and hanging baskets may be required as part of the landscape plan.

6. Miscellaneous solid wood materials such as fences, decks, pergolas, etc. that are not painted in conjunction with the greater development color palette shall be uniformly stained any variety of the color brown.

J. Additional Parking Requirements. Parking shall be designed to provide adequate, but not excessive, space.

1. The number of parking spaces may be modified as follows:

a. High turnover eating or drinking establishments such as coffee shops, ice cream parlors and "take-and-bake" food services may vary from the parking requirements for restaurants by providing evidence that demonstrates the short term nature of their employee and patron parking needs. In no case, however, shall parking be reduced below the number of spaces that would be required for an equal size retail store.

b. Retail uses within one thousand (1,000) feet of one hundred (100) or more residential units may further reduce their total parking requirements to 0.9 of the total spaces required.

2. Employee and Patron Parking Restrictions. Employee and patron parking shall be restricted to available parking as follows:

a. On-site parking;

b. Owned or easement parking for patrons within five hundred (500) feet of the business site;

c. Owned or easement parking for employees within one thousand (1,000) feet of the business site;

d. On street parking along the property frontage.

K. Street, Alley and Sidewalk Design. Street, sidewalk and alley design shall safely and efficiently provide for vehicular and pedestrian travel while enhancing the character of the commercial and institutional developments within the community through compliance with the following design

standards. These standards shall apply in addition to any other City requirements for street, alley or sidewalk design, located in the adopted transportation system plan. In the event of a conflict, the provisions of this section shall control.

1. Intersection Design. Curb extensions shall be created at all intersections where feasible from a traffic management standpoint and unless such extensions would interfere with the turning and stopping requirements of emergency service vehicles (e.g., fire trucks, ambulances), buses or delivery vehicles. Such extensions will be designed to accommodate the turning and stopping requirements of such vehicles.

2. Sidewalks. Sidewalk design shall consider and encourage opportunities for outdoor cafés, pushcart vendors, seasonal sidewalk sales, festivals and similar uses and activities which enliven pedestrian walkways.

3. Alleys. Alleys shall be incorporated into design plans where feasible as pedestrian and vehicular accessways.

4. Protecting Pedestrians. In areas of potential vehicle/pedestrian conflict, street furniture or bollards (see Section 6 of Appendix B for examples) shall be used to help create a "protected zone" for the pedestrian.

5. Street Furniture and Lighting. New and substantially remodeled buildings shall incorporate street furniture and lighting within the public right-of-way and in private areas open to public pedestrian activity (see Section 6 of Appendix B) and per the requirements of Section 16.43.030 (Automobile parking standards).

6. Street Trees. Street trees shall be required to be installed in compliance with Chapter 16.42, Landscaping, Street Trees and Buffering, as a condition of approval.

L. Exceptions to the Happy Valley Design Standards.

1. The Planning Official or designee may allow exceptions to these standards without the need to obtain a formal variance pursuant to Chapter 16.71. For each standard for which a design exception is sought, the applicant shall demonstrate that at least one of the following circumstances is met:

a. The physical characteristics of the site or existing structure (e.g., steep slopes, wetlands, other bodies of water, trees or other significant natural features of the site, buildings or other existing development, utility lines and easements, etc.) make compliance with the standard impractical; or

b. The alternative design better complies with the following:

i. The purpose of the Happy Valley Style design standards in subsection A of this section;

ii. The character of the Happy Valley Style in Section 2 of Appendix B; and

iii. The intent of the standard as outlined in Appendix B.

2. A request for exception under this provision may be processed as part of the underlying application or separately as a Design Review II application.

Chapter 16.47 PROPERTY MAINTENANCE

16.47.010 Property maintenance.

A. Purpose. All properties within the City shall be maintained in a manner which will prevent the existence of hazards and life threatening conditions. Maintenance of properties shall include any vegetation, natural features and structures of any type located on the property.

B. Vegetation.

1. Any trees which are dead, harboring a nuisance, leaning or reclining at an angle which could create a danger if the tree were to fall, is a fire hazard or interferes with utilities or service delivery shall be removed from the property by or at the expense of the property owner.

2. Grass and weeds growing on any property for noncommercial purposes shall not be allowed to grow above a height of ten (10) inches above ground level. Cutting or removal shall be at the owner's expense.

3. Noxious weeds and growth must be removed immediately upon appearance on any property. After official notice from the City, failure to remove such weeds and growth shall result in removal, disposal and spraying of the area by the City, which shall be reimbursed by the property owner. The City shall keep records of such costs and shall send an invoice to the property owner for such costs incurred. The bill is to be paid immediately upon receipt via registered mail.

C. Natural Features.

1. No water shall be allowed to pond where such ponded water has been or will become stagnant and act as a breeding area for insects or will harbor a nuisance of any type.

2. Any slope or scarp which is steep enough to create a potential hazard from rockfall, mudslide or landslide shall be maintained in any practical and possible way to prevent damage to surrounding properties or injury to any person.

D. Structures. Any structure which has been condemned by an official source or which has been judged unsafe by the Building Official shall be repaired if possible to become usable or habitable under current building codes as administered by the Building Official to become habitable or it shall be removed from the property. Any repair and/or removal of any structure from any property shall be at the expense of the property owner.

E. Safety. No feature of any property, whether natural or manmade, shall lean, recline or lay across any property line or cause any hazard to any other property by such means as falling, creeping, sliding or any other means.

Chapter 16.48 INDUSTRIAL DESIGN STANDARDS

16.48.010 Employment Center (EC), Industrial Campus (IC) and Institutional and Public Use (IPU).

A. Purpose. The purpose of the design standards within this section is to promote high quality employment development within the EC, IC and IPU areas. The intent is to encourage economic vitality and job creation, sustainability, efficiency, flexibility, connectivity and well-designed, mixed-use employment centers that can adapt over time to changes in market dynamics. The intent of the design standards is to:

1. Preserve and protect the public health, safety and welfare of the citizens and workers of the City;

2. Promote efficient utilization of land for business development;

3. Incubate and support sustainable business and industry;

4. Improve the function and appearance of industrial and commercial streets, and enhance the convenience, ease and enjoyment of transit use, walking and public gathering;

5. Define building forms to be compatible with their context.

B. Relationship to Other Standards. The standards of this section apply in addition to other standards of this title. Where standards in this section conflict with standards in other sections of this Code, the standards of this section shall govern.

C. Applicability. The design standards in this section apply to all new employment, industrial, non-office institutional buildings and police/fire buildings.

D. Building Siting and Design Standards and Characteristics.

1. Exterior Materials. Exterior buildings materials should give the appearance of high-quality design. Materials must have a durability equivalent to that expected of contemporary office, flex and industrial buildings. Appropriate materials include, but are not limited to: masonry (e.g., brick or architectural block); glass; synthetic plaster; pre-cast concrete; or, stone. Materials of lesser durability or appearance shall be limited to the rear façade of the buildings. Materials considered of lesser durability or appearance include, but are not limited to: metal panels/sheet metal, fiberglass panels, vinyl or aluminum siding, or wood shingles.

2. Exterior Colors. The contrast between trim or mortar and the dominant exterior finish should be moderate. The dominant exterior shall have earth-tone shades, such as gray, tan, brown, rust, green, red, etc.

3. Complex Massing Required. New buildings shall use massing characteristics and asymmetrical composition to avoid the monolithic expanse of frontages and roof lines and break up building sections using elements including variable planes, projections, bays, setbacks, canopies, awnings, parapets, changes in the roof line, materials, color, or textures.

4. Upper Floor Appearance. When buildings have two or more stories, the material used at the ground level shall differ from that used at upper levels in order to create a clear distinction between the ground and upper levels.

5. Enclosure or Screening of Mechanical Equipment. Roof mounted mechanical equipment on flat roofed structures shall be screened by parapet walls to the maximum degree possible. Site located mechanical equipment shall be installed in below grade vaults where possible or screened by a site obscuring fence or landscaping. Other building mounted mechanical equipment shall be screened from view to the maximum degree possible.

6. Site Lighting. Exterior illumination shall be designed per the requirements of Section 16.43.030 (Automobile parking standards).

E. Open Space Requirements. All developments subject to this section shall comply with the following open space requirements.

1. Minimum Open Space. A minimum of ten (10) percent of land area shall be useable open space, to include employee amenities such as outdoor break areas, outdoor eating areas, recreation activity space, etc.

2. Aggregated Open Space. Open space should be aggregated in contiguous areas rather than dispersed throughout the site.

3. Courtyards and Plazas. Courtyards and plazas shall be surrounded by at least one building. Building walls fronting courtyards and plazas shall include at least one entrance, outdoor weather protection, outdoor seating and ground floor façade transparency through windows and/or doors.

4. Pedestrian Connections. Open space network shall include interior paths and common areas that link buildings with walkways, courtyards and plazas, functional open space and trails.

F. Additional Landscaping and Site Design Requirements. All developments subject to this section shall comply with the following landscape and site design requirements.

1. Street Trees. Street trees shall be required to be installed in compliance with Chapter 16.42, Landscaping, Street Trees, Fences and Walls, as a condition of approval.

2. Protecting Pedestrians. In areas of potential vehicle/pedestrian conflict, street furniture or bollards (see Chapter 16.46 for examples) shall be used to help create a "protected zone" for the pedestrian.

3. Landscape Design.

a. Where new or substantially remodeled buildings are set back from property lines and sidewalks, intervening landscaping shall be designed to invite the public in, not to provide separation.

b. Where non-pedestrian space is placed between a building and a sidewalk, benches, low sitting walls or other street furniture shall be placed in order to enliven the sidewalk.

c. Small areas of landscaping and paving in courtyards, entryways, building nooks and other areas shall use materials and designs similar to adjacent public spaces where such use will make the area appear larger or more inviting. This requirement is intended to minimize the transition from public to private space, but is not intended to restrict changes in material where it is functionally necessary or where it will avoid visual monotony.

G. Additional Parking Requirements. Parking shall be designed to provide adequate, but not excessive, storage space for vehicles.

1. Parking areas shall be screened with landscaped berms, shrubs, trees, or other materials providing a natural and harmonious appearance with the buildings and surrounding area. Vehicles need not be completely screened from sight, but rather a visible break should be provided between public areas and parking areas.

2. Employee and Patron Parking Restrictions. Employee and patron parking shall be restricted to available parking as follows:

a. On-site parking;

b. Owned or easement parking for patrons within five hundred (500) feet of the business site;

c. Owned or easement parking for employees within one thousand (1,000) feet of the business site;

d. On street parking along the property frontage.

H. Street, Alley and Sidewalk Design. Street, sidewalk and alley design shall safely and efficiently provide for vehicular and pedestrian travel while enhancing the character of the commercial and industrial developments within the community through compliance with the following design standards. These standards shall apply in addition to any other City requirements for street, alley or sidewalk design, located in the adopted Transportation System Plan (TSP). In the event of a conflict, the provisions of this section shall control.

1. Intersection Design. Curb extensions shall be created at all intersections where feasible from a traffic management standpoint and unless such extensions would interfere with the turning and stopping requirements of emergency service vehicles (e.g., fire trucks, ambulances), trucks, buses or delivery vehicles. Such extensions will be designed to accommodate the turning and stopping requirements of such vehicles.

2. Alleys. Alleys shall be incorporated into design plans where feasible as pedestrian and vehicular accessways.

I. Exceptions.

1. The Planning Official or designee may allow exceptions to these standards without the need to obtain a formal variance pursuant to Chapter 16.71 provided at least one of the following circumstances is met:

a. The applicant demonstrates that the physical characteristics of the site or existing structure make compliance impractical (e.g., they include, but are not limited to, steep slopes, wetlands, other bodies of water, trees or other natural features of the site, buildings or other existing development, utility lines and easements, etc.);

b. The applicant demonstrates that the alternative design is exceptional in the quality of detailing, appearance or materials and/or creates a positive unique relationship to other structures, views or open space in a manner that accomplishes the purpose of this section; or

c. The applicant is proposing an expansion of an existing building that is solely designed and constructed to provide accessibility for the disabled, provide for energy conservation (e.g., addition of an entry vestibule), provide for screened recycling or trash storage, or relocate or screen visible exterior mechanical equipment so that such equipment is no longer visible.

2. A request for exception under this provision may be processed as part of the underlying application or separately as a Design Review II application.

Chapter 16.49 MARIJUANA TIME, PLACE, AND MANNER REGULATIONS

16.49.010 Applicability.

This chapter applies to:

A. Marijuana production, processing and wholesaling in the IC and EC Districts (as limited); and

B. Marijuana retailing in the CCC, MCC, MUC, and MUE Districts. (Ord. 503 § 1, 2016)

16.49.020 Procedure.

Marijuana production, marijuana wholesaling, and marijuana retailing require review as Type I applications pursuant to Section 16.61.020. Marijuana processing requires review as a Type II application pursuant to Section 16.61.030. The facility shall also be licensed by the Oregon Liquor Control Commission (OLCC) or Oregon Health Authority (OHA) as applicable.

16.49.030 Marijuana production and marijuana processing.

Marijuana production, processing, and wholesaling shall be subject to the following standards and criteria:

A. Indoor Production, Processing and Wholesaling. In the EC and IC Districts, marijuana production, processing, and wholesaling shall be located entirely within one or more completely enclosed buildings.

B. Maximum Building Floor Space. The following standards apply in the EC and IC Districts:

1. A maximum of twenty thousand (20,000) square feet of building floor space may be used for all activities associated with marijuana production, processing, and wholesaling on the premises; and

2. If only a portion of a building is authorized for use in marijuana production, processing and wholesaling a partition wall at least seven feet in height, or a height as required by the Oregon Structural Specialty Code shall separate the marijuana production, processing and wholesaling space from the remainder of the building. A partition wall may include a door, capable of being closed, for ingress and egress between the marijuana production, processing and wholesaling space and the remainder of the building.

C. Lighting. Lighting shall be regulated as follows:

1. Light cast by light fixtures inside any building used for marijuana production or marijuana processing shall not be visible outside the building from 7:00 p.m. to 7:00 a.m. the following day;

2. Outdoor marijuana grow lights shall not be illuminated from 7:00 p.m. to 7:00 a.m. the following day; and

3. Light cast by exterior light fixtures other than marijuana grow lights (e.g., security lights, driveway lights) shall not be directed skyward and shall be directed within the boundaries of the subject property.

D. Odor. As used in Section 16.49.030, building means the building, or portion thereof, used for marijuana production or processing and shall be regulated as follows:

1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter;

2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for cubic feet per minute (CFM) equivalent to the volume of the building (length multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM;

3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every three hundred sixty-five (365) days;

4. Negative air pressure shall be maintained inside the building;

5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building;

6. The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with this subsection (D); and

7. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

E. Noise. The applicant shall submit a noise study by an acoustic engineer licensed in the State of Oregon. The study shall demonstrate that generators as well as mechanical equipment used for heating, ventilating, air conditioning, or odor control will not produce sound that, when measured at any lot line of the subject property, exceeds fifty (50) dB(A).

F. Security Cameras. If used, security cameras shall be directed to record only the subject property and may be directed to public rights-of-way as applicable, except as required to comply with licensing requirements of the OLCC or registration requirements of the OHA.

G. Water. The applicant shall submit:

1. A water right permit or certificate number for the proposed marijuana production or processing;

2. A statement that water is supplied from a public or private water provider, along with the name and contact information of the water provider; or

3. Proof from the Oregon Water Resources Department that the water to be used for marijuana production or processing is from a source that does not require a water right.

H. Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.

I. Processing Limitations. The use of butane or other explosive materials in the processing of marijuana is prohibited.

16.49.040 Marijuana retailing.

Marijuana retailing shall be subject to the following standards and criteria:

A. Hours. A marijuana retailer may only sell to consumers between the hours of 10:00 a.m. and 9:00 p.m. and may only permit consumers to be present in the building space occupied by the marijuana retailer between the hours of 10:00 a.m. and 9:00 p.m.

B. Odor. As used in this section, “building” means the building, or portion thereof, used for marijuana retailing per the following provisions:

1. The building shall be equipped with an activated carbon filtration system for odor control to ensure that air leaving the building through an exhaust vent first passes through an activated carbon filter;

2. The filtration system shall consist of one or more fans and activated carbon filters. At a minimum, the fan(s) shall be sized for CFM equivalent to the volume of the building (length

multiplied by width multiplied by height) divided by three. The filter(s) shall be rated for the applicable CFM;

3. The filtration system shall be maintained in working order and shall be in use. The filters shall be changed a minimum of once every three hundred sixty-five (365) days;

4. Negative air pressure shall be maintained inside the building;

5. Doors and windows shall remain closed, except for the minimum length of time needed to allow people to ingress or egress the building;

6. The filtration system shall be designed by a mechanical engineer licensed in the State of Oregon. The engineer shall stamp the design and certify that it complies with Section 16.49.040(B); and

7. An alternative odor control system is permitted if the applicant submits a report by a mechanical engineer licensed in the State of Oregon demonstrating that the alternative system will control odor as well or better than the activated carbon filtration system otherwise required.

C. Window Service. The use shall not have a walk-up window or drive-thru window service.

D. Waste Management. Marijuana waste shall be stored in a secured waste receptacle in the possession of and under the control of the OLCC licensee or OHA registrant.

E. Minors. No one under the age of twenty-one (21) shall be permitted to be present in the building space occupied by the marijuana retailer, except as allowed by State law.

F. Co-Location of Related Activities and Uses. Marijuana and tobacco products shall not be smoked, ingested, or otherwise consumed in the building space occupied by the marijuana retailer. In addition, marijuana retailing shall not be co-located on the same lot of record or within the same building with any marijuana social club or marijuana smoking club.

G. Minimum Separation Distances.

1. The use shall be located a minimum of:

a. Two thousand (2,000) feet from a public elementary or secondary school for which attendance is compulsory under Oregon Revised Statutes 339.020, including any parking lot appurtenant thereto and any property used by the school; or a private or parochial elementary or secondary school, teaching children as described in ORS 339.030(1)(a), including any parking lot appurtenant thereto and any property used by the school;

b. One thousand (1,000) feet from a public park, public playground, public recreation facility (athletic field, court, gym, swim pool, etc.), public community center, public library, licensed treatment center, light rail transit station, or a multifamily dwelling owned by a public housing authority.

i. A natural area or open space is exempt from this setback if the natural area is simultaneously owned by a public body and the area is not open to the public for regular usage;

c. Five hundred (500) feet from a licensed daycare facility or licensed preschool, including any parking lot appurtenant thereto and any property used by the daycare facility or preschool; and

d. One hundred (100) feet from a residentially zoned property.

2. If the use is licensed by the OLCC pursuant to Section 22, Chapter 1, Oregon Laws 2015, it shall be located a minimum of one thousand (1,000) feet from any other marijuana retailer so licensed by the OLCC.

3. If the use is registered with the OHA pursuant to ORS 475.314, it shall be located a minimum of one thousand (1,000) feet from any other marijuana retailer so registered with the OHA.

4. For purposes of subsection (G)(1), distance shall be measured from the lot line of the affected property (e.g., a school) to the closest point of the building space occupied by the marijuana retailer. For purposes of subsections (G)(2) and (3), distance shall be measured from the closest point of the building space occupied by one marijuana retailer to the closest point of the building space occupied by the other marijuana retailer.

5. A change in use (including a zone change) to another property to a use identified in subsection (G) after a complete Type I application for marijuana retailing has been filed shall not result in the marijuana retailer being in violation of subsection (G).

16.49.050 Approval period.

A. Approval of a permit under this chapter shall be effective for a period of two years from the date of final approval. The approval shall lapse if:

1. A public improvement plan or building permit application for the project has not been submitted within two years of approval; or

2. Construction on the site is in violation of the approved plan.

Happy Valley Municipal Code: Land Development Code Effective December 31, 2022 – January 4, 2023

ARTICLE 16.5 PUBLIC FACILITIES

Chapter 16.50 PUBLIC FACILITIES

16.50.010 Purpose and applicability.

This chapter governs planning and design standards for public and private transportation facilities and utilities.

16.50.020 General public facilities standards.

A. Any property that is developed within the City will be required to improve or upgrade the public facilities and services which directly serve the subject property. The required public improvements shall be paid for directly by the landowner or developer or by other means as arranged between the developer and the provider. Where physical or topographical condition, or other factors, make the extension of a public facility concurrent with development impractical, the Planning Official or designee may require a cash payment to the City in lieu of the facility design and construction. The amount of the payment shall be equal to one hundred twenty-five (125) percent of City determined or agreed upon value for the design and construction of the facility, or the developer's proportional share thereof as calculated by the City.

B. The improvement and/or upgrading of public facilities shall be done in conformance with the design criteria, standard construction specifications and details maintained by the City Engineer, or any other authority with jurisdiction. The City's specifications, standards, and details are hereby incorporated into this code by reference. See Section 16.50.030(A)(1).

C. The need to improve or upgrade the public facilities and services as a result of the development of property shall be determined solely by the City or supplier of the facility or service. If the City makes such a determination for a City provided facility or service, such determination may be appealed to the City Council only if the council itself did not make the determination. Decisions on other determinations made by public or private utility companies, service districts, commercial businesses or other companies, agencies or organizations are outside the jurisdiction of the City and cannot be appealed to the Council nor held binding by this section.

D. A developer may also be held responsible for a "fair share" part of the larger local improvement which is required as a result of the development of which the developer's proposal is a part and the resultant pressures for increased, extended or improved facilities and services. Such

"fair share" may be assessed and collected by the appropriate company, agency, organization or governmental unit.

E. The City shall be held harmless in any improvement or upgrading activity carried on by the developer, even though such activity was required or approved by the City. The developer shall sign such an agreement as provided by the City Attorney.

F. New individual subsurface sewage disposal systems may be installed at any time to replace an existing but failing system within an existing lot of record. A new individual subsurface sewage disposal system may be installed on a previously undeveloped lot of record formerly within unincorporated Clackamas County, but may not be utilized to serve parcels or lots created by any land division, or to serve any new nonresidential development. However, if public sanitary sewer service is available within three hundred (300) feet of any property line of the existing system and capable of serving the site of the failing system or undeveloped lot of record with a regular or gravity hookup, sanitary sewer service shall be utilized rather than a new replacement individual onsite subsurface sewage disposal systems.

16.50.030 Transportation standards.

A. Purpose. The purpose of this chapter is to establish design standards and performance requirements for all streets and roads and other transportation facilities constructed or reconstructed within the City, as well as to establish a process for variation from the streets standards. For transportation facilities not under City jurisdiction, the applicable jurisdiction's permitting standards may apply.

1. All streets which are to be constructed must be designed by a professional engineer registered in the State of Oregon, and must conform to the Engineering Design and Standard Details Manual developed by the City of Happy Valley.

2. The public residential streets standards shall be considered as minimum design requirements under ideal circumstances. All public residential streets in the City shall be designed to one of the typical cross-sections found within the City's Transportation System Plan (TSP), except as provided in subsection B. The typical street cross-section shall be approved by the City Engineer (based on consultation with the City's Traffic Engineer) as part of the review process as provided in this title and shall be based on the following considerations:

a. Street function needed within the existing proposed and future neighborhood and the City circulation networks;

b. Anticipated daily traffic volumes;

c. Individual property access requirements;

d. Topographic variations and the amount of cut and fill required for the proposed street;

e. Soil and other field conditions.

3. New residential and mixed-use development proposals subject to site plan review must demonstrate consistency with Figure 8-2 Local Street Connectivity in the Transportation System Plan by providing a site plan that shows proposed new or extended street(s).

B. Street and Road Standards.

1. Horizontal and vertical street alignment shall be designed in accordance with the City's Engineering Design and Standard Details Manual.

2. Street Design Variations. Alternate design variations from the standards found within the Engineering Design and Standard Details Manual and Transportation System Plan (TSP) or this chapter may be considered for approval by the City Engineer if one of the following conditions are found to be present:

   a. Existing local conditions create unusual circumstances where standards must be exceeded such as excessive or unstable slopes, mixed land uses to utilize the same street, or a pedestrian or bikeway link is needed;

   b. Existing local conditions create unusual circumstances, including, but not limited to, where standards must be reduced such as reducing sidewalks to one side of the street only, reducing street widths, reconstruction of a street in an existing neighborhood for reduction of excessive cuts and fills, or where steep cross slopes exist making reduced widths advisable and parking turnouts recommended;

   c. Variation is necessary to the overall design objectives of a particular proposed development such as green street design elements that are consistent with federal regulations for stream protection, parking turnouts, and landscaped islands and circles for traffic control.

3. Specifications and Design Standards. Unless otherwise required by the Engineering Design and Standard Details Manual, the City Engineer, or this chapter, road specifications shall conform to the most recent issue of the Oregon State Highway Division's "Standard Specifications for Highway Construction."

4. Structural Section.

   a. Purpose. The typical structural sections that are to be used for each street classification are shown in the City's Standard Details found in the Engineering Design and Standard Details Manual. The City Engineer may increase the structural section to conform to projected traffic loads or unstable soil conditions.

   b. Variation. Sections utilizing other methods of construction than shown in the standard drawings (i.e., lime or cement treated subgrade, or Portland cement or asphaltic cement treated base, etc.) may be submitted for review and approval by the City Engineer.

   c. Structural Design. In areas determined unstable by the City Engineer, the Design Engineer will be required to submit a structural design for approval. Included in the submittal shall be the soils analysis on which the design was based.

5. Asphalt Pavement Design.

   a. The wearing surface of asphalt concrete (AC) streets shall be HMAC, designed and placed in accordance with the requirements outlined in the Engineering Design and Standard Details Manual.

   b. In areas requiring a specialized pavement design, the asphalt pavement may be designed using any nationally recognized procedure approved by the City Engineer.

c. The minimum paving temperature limits for placement of HMAC shall be in accordance with the requirements outlined in the Engineering Design and Standard Details Manual.

d. The City's Engineering Division shall be notified forty-eight (48) hours in advance of intent to place HMAC.

e. The project geotechnical engineer shall be present while HMAC is being placed and shall perform compaction testing on each lift of HMAC.

f. The compacting testing results shall meet the requirements of Section 00745.9, Compaction QC, "Oregon Standard Specifications for Highway Construction."

g. Failure to comply with the minimum compaction testing requirements may result in the removal of the substandard pavement surface upon direction of the City Engineer or designee.

6. On-Street Parking Restrictions. On-street parking restrictions shall be per the most recent iteration of the Oregon Fire Code Applications Guide, as determined by Clackamas Fire District No. 1.

7. Private Streets. Private streets shall conform to the typical cross-sections found within the Engineering Design and Standard Details Manual, and the City's Transportation System Plan. Private streets within single-family detached, duplex, triplex, quadplex, and cottage cluster developments shall be designed to provide access to no more than five lots (excluding middle housing child lots resulting from a middle housing land division). Private streets serving multifamily housing developments shall provide commercial drives in conformance with the City's Transportation System Plan and Engineering Design and Standard Details Manual.

8. Rights-of-Way. Prior to issuance of building permits or recordation of final plat, the City shall require dedication of rights-of-way in accordance with the City's Transportation System Plan. All dedications shall be recorded with the County assessor's office.

a. When a tract of land is divided into parcels of more than one acre each, the commission may require an arrangement of lots and streets such as to permit a re-dividing into smaller lots in conformity with the street and lot requirements specified in this chapter.

9. Connectivity and Block Length. The following shall govern the design and layout for blocks within all subdivisions or planned unit developments:

a. Block Length. The blocks shall be consistent with the requirements of topography and the needs for convenient access, circulation, control and safety of street traffic and the type of land use proposed. Block lengths shall not exceed five hundred thirty (530) feet or be less than two hundred (200) feet in length, except if prevented by barriers such as topography, water resources or significant natural resources, freeways, pre-existing development, leases, easements or covenants that existed prior to May 1, 1995. In a Water Quality Resource or Habitat Conservation Area (HCA) the distance between streets may be increased to eight hundred (800) to one thousand two hundred (1,200) feet where protected natural features are present.

b. Block Width. Except for reverse frontage lots, the width of blocks shall be sufficient to allow for two tiers of lots of depth consistent with the type of land use proposed.

c. Pedestrian Paths and/or Multi-Use Paths.

i. Spacing between pedestrian connections shall be no more than two hundred sixty-five (265) feet.

ii. Pedestrian paths shall be provided when full street connections are not possible because of topography, barriers such as freeways or railroads, or environmental constraints.

iii. Pedestrian access to schools, playgrounds and other community facilities shall be provided from the public right-of-way.

iv. Path design and construction shall be in accordance with the Engineering Design and Standard Details Manual and the City's Transportation System Plan.

v. Pedestrian paths shall be encompassed in a public access easement.

vi. Pedestrian and multi-use paths shall have an all-weather surface to City standards and will include removable bollards to prevent use by unauthorized motorized vehicles.

vii. In developments incorporating pedestrian paths within steep slopes, paths twenty (20) percent or greater in grade are required to incorporate stairs.

viii. In natural resource areas, surfaces may include gravel or bark chip; in all other scenarios, pedestrian and muti-use paths shall be constructed of improved, all weather surface.

ix. Pedestrian and multi-use paths are required to be maintained by a homeowner's association or equivalent maintenance organization.

x. Multi-use paths shall be constructed in conformance with the definition of a multi-use path within Section 16.12.030 of this title.

d. Cul-de-Sacs and Loop Turn-Around Streets. A cul-de-sac or loop turn-around street shall only be proposed where the City Engineer recommends to the appropriate review body that environmental or topographical constraints, existing development patterns, or compliance with other applicable City requirements preclude a street extension. Where the City determines that a cul-de-sac or loop turn-around street is allowed, all of the following standards shall be met:

i. The cul-de-sac or loop turn-around street shall not exceed a length of two hundred (200) feet, unless the adjoining land contains barriers such as existing buildings, railroads or freeways, or environmental constraints such as steep slopes, wetlands, drainageways, creeks or streams, that prevent future street extension and connection. A central landscaped island with rainwater management and infiltration are encouraged in cul-de-sac design. No more than ten (10) dwelling units shall take access to a new cul-de-sac or loop turn-around street unless it is determined that the traffic impacts on adjacent streets will not exceed those from a development of ten (10) or fewer units. All other dimensional standards of cul-de-sac or loop turn-around streets shall be governed by the Engineering and Design Standards Manual and are based on the recommendation of the City Engineer. The length of the cul-de-sac or loop turn-around street shall be measured along the centerline of the

roadway from the near side of the intersecting street to the farthest point of the street;

ii. No more than ten (10) dwelling units shall take access to a new cul-de-sac or loop turn-around street;

iii. Cul-de-sac or loop turn-around streets shall terminate in a configuration that meets Clackamas Fire District No. 1 guidelines and is consistent with Figure 8-8 of the City of Happy Valley Transportation System Plan; and

iv. Cul-de-sac or loop turn-around streets shall provide pedestrian connections from the end of the street to adjacent developed and developable lands, and shall provide or not preclude the opportunity to later install bicycle access way between it and adjacent developable lands. Such access ways shall conform to Section 16.41.040.

10. Subsurface Drainage.

a. Subsurface street drainage shall be an integral part of street design. Subsurface drains shall be designed and constructed to properly address the affected soil. In the event that no subsurface drainage is required based on a soils report, a transverse perforated drain pipe shall be installed below the sub-base rock at the point of each sag vertical curve. The subsurface drains are for the purpose of collecting and conveying subsurface water only, not surface runoff. They are not to be considered part of the storm drainage system for storm drainpipe sizing purposes;

b. Subsurface drains shall connect and drain into the storm drainage system at catch basins, curb inlets, gutter inlets, manholes or roadside ditches. Surcharge from the storm drainage system shall not be allowed to back up into the subsurface drains. Alternative subsurface drainage measures may be used if approved by the City Engineer.

11. Guardrails. The following specifies the minimum requirements for the location and type of guardrails:

a. The decision of whether to install a guardrail or not shall be based on information found in the AASHTO publication, “Guide for Selecting, Locating and Designing Traffic Barriers”;

b. Guardrails shall be designed and constructed per ODOT’s Standard Drawings for Design and Construction.

12. Transitions. Street width transitions shall be designed in accordance with the Engineering Design and Standard Details Manual.

13. Superelevation Cross-sections. Off-set crown cross-sections are not acceptable as superelevation sections.

14. Stub Streets. Stub streets allow for future street extensions. A barrier will be required at the end of a stub street. Notification that the street is planned for future extension shall be posted where the street improvement ends.

15. Utilities.

a. On all phased (interim) road improvements, the necessary utilities shall be stubbed across the interim improvement to assure cuts are not necessary when the road is expanded to its full width.

b. Underground utilities being constructed along existing paved streets shall not be located under the existing pavement unless approved by the City Engineer. Underground utilities that must cross an existing paved street shall be bored rather than open cut, unless approved by the City Engineer.

c. Underground utilities shall be buried a minimum depth of thirty (30) inches as measured from finished grade to top of utility.

d. Street lights shall be located as required to provide proper illumination but shall not physically or visually interfere with vehicle or pedestrian traffic.

16. Raised Medians. Raised medians are allowed on certain streets in accordance with the City's Transportation System Plan. Where raised medians are allowed, they shall be designed in conformance with the Engineering Design and Standard Details Manual.

17. Sight distance at intersections shall meet the minimum requirements set by AASHTO *A Policy of Geometric Design of Highways and Streets*, latest edition, based upon the design speed. When a sight distance easement is needed at an intersection, an open space tract shall be dedicated to obtain the correct sight visibility. Plantings or structures in the open space tract/sight distance easement shall conform to the Engineering Design and Standard Details Manual.

18. Corner or Clear Vision Areas.

a. A clear vision area shall be maintained on each corner of property at the intersection of any two streets, or a street and a driveway in accordance with the Engineering Design and Standard Details Manual. No structures, plantings or other obstructions that would impede visibility between the height of thirty (30) inches and ten (10) feet shall be allowed within such area. Measurements shall be made from the top of the curb or when there is no curb, from established street centerline grade. However, the following items shall be exempt:

i. Light and utility poles with a diameter less than twelve (12) inches;

ii. An existing tree, trimmed to the trunk, ten (10) feet above the curb;

iii. Official warning or street sign;

iv. Natural contours where the natural elevations are such there can be no cross-visibility at the intersection and necessary excavation would result in an unreasonable hardship on the property owner or deteriorate the quality of the site.

b. Driveways constructed on streets without curbs shall meet the minimum intersection sight distance requirements.

19. Vertical Clearance. A minimum clearance of fourteen (14) feet above the pavement surface shall be maintained over all streets and access drives.

20. Interim Improvement Standards. It is anticipated that all existing streets, except those in new subdivisions, will require complete reconstruction to support urban level traffic volumes. However, in most cases existing and short-term projected traffic volumes do not warrant improvements to full standards. Therefore, unless otherwise specified by the review body, interim standards as determined by the City Engineer shall apply.

21. In order to provide adequate travel lanes and stormwater drainage, roadway improvements that are constructed within areas abutting multiple properties are required to

construct “three-quarter” streets along the applicable frontage of a subject site (curb, gutter, sidewalk, planter strip and a full paved section designed to accommodate stormwater drainage pursuant to CCSD#1 specifications).

a. A Reserve or Access Control Strip. In cases where unimproved (gravel) or under-improved (paved section width less than that required by street classification) public rights-of-way serve a proposed development, off-site improvements shall, at a minimum, include the construction of a full paved section pursuant to the applicable street standard, designed to accommodate stormwater drainage pursuant to CCSD#1 specifications. Said improvements shall continue to an adequately improved public right-of-way, as determined by the City Engineer.

22. Miscellaneous Information. The expense related to modification of an existing street to accommodate proposed access, including all traffic control devices and lighting, shall be paid for by the developer.

C. Street and Road Access Control.

1. Cul-de-sac and Residential Streets—Residential and Commercial Uses. A permit is required for access, subject to general considerations of safety, function, etc.

2. When a partition, subdivision or a planned unit development abuts or contains an existing or proposed arterial street as defined within the City’s Transportation System Plan, the review authority shall require reverse frontage lots, thereby precluding access to the parkway streets.

3. Access and Traffic Signal Spacing Standards. Access and traffic signal spacing standards are defined within the City’s Transportation System Plan. New development and roadway projects located on City street facilities shall meet the access and traffic signal spacing standards within the Transportation System Plan. Access points include public streets, private streets, and private commercial or residential driveways. A variation to the access and traffic signal spacing standards may be granted by the City Engineer in consultation with the City’s Traffic Engineer, in areas with limited property frontage and/or environmental constraints. Any variation to these spacing standards will require an access management plan to be approved by the City Engineer. Any approved variation shall be detailed within the conditions of approval of an applicable land use application, and said variations are distinctly different from, and unrelated to, variances per the provisions of Chapter 16.71 of this title.

D. Appeals.

1. Any person aggrieved by a decision of the City Engineer or other staff person under this chapter may appeal to the Hearings Officer.

2. Any person aggrieved by a decision of the Hearings Officer under this chapter may appeal to the City Council.

E. Street Names. No proper street names shall be used which will duplicate or be confused with the name of an existing street or a connecting cul-de-sac or turn-around loop street. Street names shall conform to the established patterns of the City and surrounding area and are subject to the review and approval of emergency services organizations.

F. Traffic Controls.

1. Purpose. For any development, the City Engineer may require that the owner provide an engineering traffic analysis by a registered engineer to determine the number and types of

traffic controls (traffic lights, signs, turn lanes, etc.) as may be necessary to accommodate anticipated traffic flow of the development. The recommendations reached in the engineering traffic analysis will be required by the City as a condition of issuance of a building permit and shall be approved by the City Engineer.

2. Traffic Control Devices and Street Signs. All required street name signs, traffic control signs, and traffic control devices shall be installed at the expense of the developer.

3. Variances. Variances may be granted for the conditions of this section when, in the judgment of the City Engineer, strict compliance would impose an undue hardship on the developer. (See Chapter 16.71.)

G. Location of Utility Lines.

1. To the maximum extent feasible, utilities shall be placed underground.

2. Water mains shall be located on the south and east sides of the road.

3. Power, natural gas and telephone shall be located within an eight-foot public utility easement (PUE) adjacent to the right-of-way line, or within the right-of-way, if approved by the city engineer, and shall be joint occupancy whenever possible.

4. Pedestals for Buried Cable. Pedestals installed as part of a buried cable installation are to be located within an eight-foot public utility easement (PUE) adjacent to the right-of-way line, or within the right-of-way, if approved by the city engineer. In no case shall the pedestals be located within the road maintenance operating area, including mowing operations, or nearer the pavement edge than any official road sign in the same general location.

5. Service crossings shall maintain the same depth as the main pipeline or buried cable to a point two feet behind the curb or center of the road or ditch, but in no case shall there be less than one foot cover from the bottom of the curb or ditch to the top of the service line.

6. Storm sewer lines shall be located five feet south or east of centerline of street.

7. Sanitary sewer lines shall be located five feet north or west of centerline of street.

8. The depth of utilities on improved roads shall be thirty (30) inches minimum, forty (40) inches minimum on unimproved roads, and thirty (30) inches minimum below subgrade on proposed construction or reconstruction. All depths are to top of pipe lines or buried cable.

9. Locations other than those noted above must be approved by the City Engineer.

H. Sidewalks and Bikeways.

1. Requirements for sidewalks and bikeways shall be as delineated within the Transportation System Plan.

2. Sidewalks.

a. Sidewalks may be either private or public, depending on their location inside or outside of the public right-of-way.

b. Sidewalks shall tie to public streets at locations determined by the City Engineer.

c. Sidewalks shall be constructed of concrete in accordance with the City's Engineering Design and Standard Details Manual. Other materials must be specifically approved by the City Engineer.

d. Sidewalks shall have a maximum grade of fifteen (15) percent.

e. Ramps for handicapped use are required on all sidewalks used by the public at all points where a sidewalk or path intersects a curb.

f. Sidewalks must be constructed in such a way as to allow the surface drainage to sheet flow across them, and not follow them longitudinally.

g. Public sidewalks shall be located either in a public easement or over land dedicated to the public.

h. Sidewalks may meander within the right-of-way with City Engineer approval.

i. Alternate Sidewalk Location. It is the general policy of the City to place sidewalks off the traveled portion of any roadway. In areas where the placement of the sidewalk would result in the removal of significant trees or the construction of significant fill or cut slopes or in other cases deemed appropriate by the City Engineer, the sidewalk may be placed elsewhere with a design reviewed and approved by the City Engineer.

j. Sidewalks must be constructed free of impediments within a minimum width of at least five feet.

3. Bikeways.

a. Bikeways shall be public.

b. Bikeways facilities shall meet the requirements of this document and the American Association of State Highway and Transportation Officials publication, "Guide for Development of New Bicycle Facilities," as amended and adopted by the Oregon Department of Transportation.

c. Bikeways must be constructed in such a way as to allow the surface drainage to sheet flow across them, and not follow them longitudinally.

d. A bikeway may be constructed adjacent to the curb within the pavement area.

e. The design of bikeways shall conform to City standards.

f. Structural sections of bikeway facilities on streets shall conform to that of the street or be integral with the curb. Bikeway facilities off street shall be constructed over a sterilized, compacted subgrade with a surface that meets the requirements set out in the Engineering Design and Standard Details Manual.

g. Design standards regarding horizontal alignment, grade, sight distance, intersections, signing, marking, structures, drainage and lighting shall conform to the AASHTO standards. When bikeways are integrated with a curb, all inlet grates shall be designed to protect the bicyclist from the grate or opening.

h. Bikeways shall be located either in a public easement or over land dedicated to the public.

16.50.040 Public use areas.

A. Dedication of Public Use Areas.

1. Where a proposed park, playground, or other public use shown in a plan adopted by the City is located in whole or in part in a subdivision, the City may require the dedication or reservation of this area on the final plat for the subdivision, provided that the impact of the

development on the City park system is roughly proportionate to the dedication or reservation being made.

2. The Parks District may purchase or accept voluntary dedication or reservation of areas within the subdivision that are suitable for the development of parks and other public uses; however, the Parks District is under no obligation to accept such areas offered for dedication or sale.

B. System Development Charge Credit. Dedication of land to the City for public use areas, voluntary or otherwise, shall be eligible as a credit toward any required system development charge for parks.

16.50.050 Sanitary sewer, storm drainage and water service improvements.

A. Sanitary Sewerage Disposal and Storm Drainage Requirements.

1. The sanitary sewerage disposal requirements for any development within the City shall be in accordance with standards established by the State of Oregon, Department of Environmental Quality (DEQ) as administered by Clackamas County. Any variances or waivers to these standards shall be granted only in accordance with established standards, criteria and procedures of DEQ.

2. All sanitary sewers shall be designed and constructed in accordance with the requirements of the Clackamas County Service District No. 1 or its successor.

3. All storm sewers shall be designed and constructed in accordance with the requirements of Clackamas County Service District No. 1 or its successor.

B. Domestic Water and Fire Protection Service Requirements.

1. All subdivisions or planned unit developments shall be served by a community or public water supply as defined and governed by state regulations. All design and construction shall be in accordance with the requirements of the water service provider.

2. All subdivisions or planned unit developments shall have an adequate water supply for fire protection purposes as required by the fire district, and shall have fire hydrants located as required by the fire district.

3. Any proposed public or private road shall be reviewed by the appropriate fire district for compliance with all applicable and appropriate standards, and a statement of compliance shall accompany the application for any subdivision or PUD (See Section 16.50.030 and any other applicable sections).

16.50.070 Utilities.

A. Purpose. Approval of a partition, subdivision, planned unit development, as well as all multifamily, commercial, industrial and institutional developments and pertinent capital improvement projects within the City shall include an express condition that requires all utility lines, including, but not limited to, those required for electric, communication, street lighting and cable television services and related facilities, to be placed underground. Whether the underground facilities have supporting containers or are buried in the earth shall be determined by the utility involved in compliance with all applicable safety regulations.

B. Variances. Subsection A of this section shall not apply to surface mounted transformers, surface mounted connection boxes and the meter cabinets which may be placed above ground, or to temporary utility service facilities during construction, or to high capacity electric and communication feeder lines, or to utility transmission lines operated at fifty thousand (50,000) volts or above.

C. Procedure. The developer shall be responsible for and shall make all necessary arrangements with the serving utilities to provide the underground services as required in subsection A of this section along the entire linear frontage of the subject site. All such underground electric and communication facilities as described above shall be constructed in compliance with the rules and regulations of the Public Utility Commissioner of the State of Oregon, relating to the installation and safety of underground lines, plant, system, equipment and apparatus. When any public or private property, including, but not limited to, streets and parks is disrupted by the installation, hookup or provision of services or facilities, the developer shall insure that the public or private property is returned as nearly as possible to the condition existing prior to the disruption. In addition, existing structures that may need to be rewired with undergrounding are also the responsibility of the developer. A bond, security agreement or cash deposit with the City for the estimated cost of repair of the public or private property shall be deposited with the City prior to the commencement of any work. The developer shall sign a statement supplied by the City Attorney which will hold the City harmless for all disruption, repair and liability involved with such project.

D. Availability. If sufficient public right-of-way is not available to accommodate undergrounding, public utility easements or utility strips satisfactory to the serving utilities shall be provided for by the developer and shall be set forth on the plat before recording in the County records or in the records of any other governmental agency entitled to recordation by law or agreement.

E. Exemptions. Developments, including capital improvement projects, with less than six hundred (600) feet of overhead utility frontage.

16.50.080 Construction plan approval, bonding and assurances.

A. Plan Approval and Permit. No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after the plans have been approved by the City, permit fee paid, and permit issued. The permit fee is required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. The permit fee shall be set by City Council.

B. Bonding and Assurances.

1. Performance Bonds for Public Improvements. Prior to obtaining City approval to construct any public improvements, the developer shall, by agreement with the City, carry out the minimum improvements required by the City's implementing ordinances and subject conditions of approval by installing the required improvements, subject to inspection and final review of the City, prior to the approval of any structural building permits and shall furnish the City with a performance bond or other financial guarantee, such as an irrevocable letter of credit or set aside account, in a form and amount satisfactory to the City. The performance bond or other financial guarantee is required to be at least one hundred twenty-five (125) percent of the construction value for improvements within the City's right-of-way as determined by the City or agreed upon by the City and developer. A performance guarantees

for erosion control and site stabilization outside of the public right-of-way shall equal twenty-five (25) percent of the on-site construction value as determined or agreed upon by the City.

If the developer fails to construct the required minimum public improvement requirements or otherwise fails to perform any conditions of approval, and the City has unreimbursed expenses resulting from such failure, the City shall place a claim against the bond or other security for reimbursement, including, but not limited to, staff time, mileage and legal expenses. If the amount of the bond or other security exceeds the expenses incurred by the City, it shall release the remainder. If the amount of the bond or other security is less than the expenses incurred by the City, the developer shall be liable to the City for the difference and a lien may be filed by the City in the City lien docket against the property to insure payment.

Any improvement that is not under City jurisdiction shall be improved pursuant to the procedures established by the responsible jurisdiction or service provider.

2. Warranty Guarantee. After satisfactory completion of the necessary public facilities, private open space landscaping and partial or full release of the performance bond by the City, the responsible party constructing the facilities shall commence satisfactory maintenance of the facilities. A warranty guarantee to be used at the discretion of the City Engineer or designee to correct deficiencies in materials or maintenance of constructed public infrastructure, or to address any failure of engineering design, must be posted with the City and maintained throughout the two-year maintenance period. The amount of the maintenance bond shall be twenty-five (25) percent of the construction cost of the facilities as approved by the City Engineer or designee. Maintenance bonds for vegetation shall not be allowed to expire without submittal of an arborist's report documenting plant health. The City may, at its option, require the maintenance bond be extended should the need arise to finalize inspections or determine plant health.

3. Liability Insurance. The responsible party constructing the facility shall maintain general liability insurance in the following amounts: One million dollars ($1,000,000.00) per occurrence; five thousand dollars ($5,000.00) for medical expense; one million dollars ($1,000,000.00) personal and advertising injury; two million dollars ($2,000,000.00) general aggregate; and two million dollars ($2,000,000.00) products/completed operations aggregate. The City of Happy Valley shall be named as additional insured using the appropriate additional insured endorsement, which shall protect the City from any and all liability related to the construction or maintenance of the facility.

4. Consolidation of Bonds. Where such persons have previously posted, or are required to post other such bonds with the City Recorder either on the facility itself or on other construction related to the facility, such person may, with the permission of the City Engineer or designee and to the extent allowable by law, combine all such bonds into a single bond. At no time shall the amount thus bonded be less than the total amount which would have been required in the form of the separate bonds, and provided further that such bond shall on its face clearly delineate those separate bonds which it is needed to replace.

5. Release of Performance Bonds. The bond or assurance shall be released by the City Recorder only when authorized by the City Engineer and Planning Official or designees find that the completed project conforms to the site development approval, including all conditions of approval.

6. Completion of Planter Strips, Street Trees and General Landscape Installation.

a. Common open space or tract landscaping; planter strips and street trees abutting common open spaces or tracts; center street medians; stormwater detention facility landscaping; and any other miscellaneous landscaping not associated with a single residential lot or parcel shall be installed prior to final infrastructure inspection and/or authorization to submit building permits. If the developer is unable to install landscaping due to extreme weather or other constraints not within the control of the developer, landscaping within common elements, open space tracts, planter strips, center medians, etc., shall be guaranteed by the submittal of a liquid financial guarantee (traditional performance bonds are not accepted) acceptable to the Planning Official, to be retained until final installation and inspection. Said guarantee shall be in an amount equal to one hundred twenty-five (125) percent of the landscaping installation estimate provided by a professional landscape contractor and shall assure such installation within six months of authorization to submit building permits. If the installation of the landscaping is not completed within the six-month period, the security may be used by the City to complete the installation.

b. Planter Strip Landscaping (Groundcover) and Street Trees Within the Public Right-of-Way, Abutting Residential Subdivision Lots. Planter strips are public improvements located within the right-of-way and as such are required to be installed by the developer. The developer is required to submit a planter strip and street tree plan as part of the construction plan set, detailing to the greatest extent practicable the placement of street trees in conformance with all spacing requirements for street intersections, street lights, driveways, fire hydrants, etc. Based on this planter strip and street tree plan, the developer and/or builder shall install the planter strip landscaping minus street trees prior to building occupancy. Prior to building permit release, the developer and/or builder shall finalize street tree planting by one of two methods. One, submit a street tree installation fee for all street trees located along public street frontages, assuming a value of five hundred twenty-five dollars ($525.00) per tree. The City of Happy Valley street tree contractor shall install all street trees located along public street frontages when the development reaches substantial buildout based on the discretion of the Planning Official or designee, but generally incorporating an eighty (80) percent benchmark. Alternatively, substantially built-out streets, blocks or neighborhoods may also be authorized for street tree planting per the discretion of the Planning Official or designee. Second, if in the interest of an expedited timeline for installation by the developer, street tree installation may be carried out by the developer, with submittal of an adequate street tree plan; performance bond for one hundred twenty-five (125) percent of the cost of the approved street tree plan as demonstrated by a bid from a professional landscape company; and, a two-year maintenance bond for the developer installed street trees.

16.50.090 Installation.

A. Conformance Required. Improvements installed by the developer either as a requirement of these regulations or at the developer's own option, shall conform to the requirements of this chapter, approved construction plans, in accordance with the Engineering Design and Standard Details Manual.

B. Commencement. Work shall not begin until the City has been notified in advance in writing.

C. Resumption. If work is discontinued for more than one month, it shall not be resumed until the City is notified.

D. City Inspection. Improvements shall be constructed under the inspection and to the satisfaction of the City. The City may require minor changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest. Modifications to the approved design requested by the developer may be subject to review under Chapter 16.66, Modifications to Approved Plans and Conditions of Approval. Any survey monuments that are disturbed before all improvements are completed by the subdivider shall be replaced and accepted by the County Surveyor prior to final acceptance of the improvements.

E. Engineer's Certification and As-Built Plans. A registered civil engineer shall provide written certification in a form required by the City that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, conform to approved plans and conditions of approval, and are of high grade, prior to City acceptance of the public improvements, or any portion thereof, for operation and maintenance. The developer's engineer shall also provide a mylar set of "as-built" plans and a CD containing electronic copies of "as-built" plans in conformance with the Engineering Design and Standard Details Manual.

16.50.100 Grading requirements.

In addition to the provisions for grading plans as required in Section 16.62.030, the following standards shall be met for all projects undergoing building permit and/or construction plan review:

A. Grading on new project sites shall blend with the contours of adjacent properties. Abrupt or unnatural appearing grading design is not allowed unless otherwise approved by a condition of approval through land division or design review processes.

B. Proposed cut and fill slopes shall be rounded off both horizontally and vertically.

C. Where graded building pads are proposed, they should extend three feet to five feet beyond the building foundation to allow a transition to the natural setting.

D. The height and length of retaining walls visible from public areas including public streets and/or abutting private properties shall be minimized and screened with appropriate landscaping, to be reviewed and approved by the Planning Official. Retaining walls shall incorporate, where possible, design elements of other architectural or natural features of the project.

E. Grading under the drip line of protected trees is prohibited to prevent soil compaction and significant root damage. A protected tree is one that is outside the building envelope or infrastructure improvement area pursuant to Section 16.42.050. On sites in the open space, the restriction on grading is extended to one and one-half times the distance from the trunk to the drip line unless mitigation by replanting native species or eradication of unwanted plant species has been approved by the City.

F. Placement and design of retaining walls over four feet in height requires approval through the design review process.

G. Retaining walls over four feet in height shall be set back from the property line, including property lines that are the shared property line/public right-of-way, a minimum distance of two feet or one-half of the retaining wall height, whichever is greater, except where a recorded slope easement exists and/or a maintenance agreement for the wall is in place. If said easement(s) exist,

the one-half height distance may be exempted at the discretion of the Building Official or City Engineer. Maintenance agreements for retaining walls abutting the public right-of-way shall be the sole responsibility of the property owner.

H. Terracing shall be considered as an alternative to the use of tall or prominent retaining walls, particularly in highly visible areas on hillsides.

I. When designing a grading plan, balancing the cut and fill is highly encouraged when it does not result in further damage to the natural topography.

J. Excavation or Filling of Soil.

1. Purpose. This section covers the layout and improvement of land, including drainage; the excavating, filling and grading of lots; the location and construction of buildings and other structures and parts and appurtenances of such buildings and structures.

2. Layout. Prime consideration in the placement of all buildings and other structures, including concrete or paved driveways or walkways, streets of any type of construction, or fills or excavations shall be the maintenance of the natural absorption through the soil of septic tank effluent, natural groundwater and water runoff.

3. Drainage. The City must approve any and all proposals that will, in the opinion of the City Engineer or designated representative, change water runoff, sewage effluent absorption or natural groundwater absorption. Natural flows of groundwater and surface water and stormwater drainage shall be maintained so as to prevent harmful effects on surrounding property. Erosion shall be controlled in accordance with an erosion control plan.

4. Procedure. It shall be the applicant who shall bear the sole burden of providing to the City any and all information, documentation, evidence and proof that any proposed development of the land will conform to and fulfill the requirements of this section.

Happy Valley Municipal Code: Land Development Code Effective December 31, 2022 – January 4, 2023

ARTICLE 16.6 ADMINISTRATION OF LAND USE AND DEVELOPMENT

Chapter 16.61 TYPES OF REVIEW PROCEDURES

16.61.010 Purpose and applicability of review procedures.

A. Purpose. This chapter sets forth the provisions, conditions, procedures and fees administering the adopted Happy Valley Comprehensive Plan and Land Development Code. This chapter establishes decision-making procedures that enable the City, the applicant and the public to reasonably review applications and participate in the local decision-making process in a timely and effective way. Table 16.61.010-1 provides a key for determining the review procedure and the decision-making body for specific applications and decisions.

B. Review Procedures. All land use and development permit applications and approvals described in Title 16, except building permits and final plat reviews, shall be decided by using the procedures contained in this chapter. The procedure "type" assigned to an application governs the decision-making process for that permit or approval. There are eight types of permit/approval procedures: Types I, II, II-DR, III-PC, III-PC/CC, III-DRB, III-HO and IV. These procedures are described in subsections 1 through 6 below. Table 16.61.010 lists all of the City's land use and development approvals and the required review procedure(s).

1. Type I Procedure (Administrative). A Type I decision is made by the Planning Official or designee, without public notice and without a public hearing. The Type I procedure is used when there are clear and objective approval criteria and applying City standards and criteria does not require the use of discretion.

2. Type II Procedure (Administrative). A Type II decision is made by the Planning Official or person designated by the Planning Official following public notice. Appeal of a Type II decision is heard by the Hearings Officer.

3. Type II-DR Procedure (Administrative). A Type II-DR decision is made by the Planning Official or person designated by the Planning Official following public notice. Appeal of a Type II-DR decision is heard by the Hearings Officer (with assistance from contract architect).

4. Type III-PC Procedure (Quasi-Judicial). A Type III-PC decision is made by the Planning Commission after a public hearing, with appeals reviewed by the City Council.

5. Type III-PC/CC Procedure (Quasi-Judicial). A Type III-PC/CC decision (e.g., Land Use/Comprehensive Plan Map Amendments under the City's "one-map" system twenty (20)

acres or above) is considered initially by the Planning Commission which makes a recommendation to the City Council.

6. Type III-DRB and Type III-HO Procedures (Quasi-Judicial). A Type III-DRB decision is made by the Design Review Board after a public hearing. A Type III-HO decision is made by the Hearings Officer. Appeal of a Type III-DRB or Type III-HO decision is heard by the City Council.

7. Type IV Procedure (Legislative). Type IV procedures apply to legislative matters. Legislative matters involve the creation, revision, or large-scale implementation of public policy initiated by the City (e.g., adoption of Comprehensive Plan amendments, adoption of ancillary documents to the Comprehensive Plan, land use regulations, government initiated changes to the Comprehensive Plan map/land use district map, etc.). Except for an expedited annexation, a Type IV decision is considered initially by the Planning Commission which makes a recommendation to the City Council. The final decision is made by the City Council.

C. Official Action. All officials, departments, commissions and employees of the City vested with the authority to make decisions regarding the Comprehensive Plan and Land Development Code, or issue permits, certificates or licenses, shall adhere to and require conformance with all applicable sections of all plans, codes and regulations with regard to land use in the City.

D. Interpretation of this Chapter. In interpreting and applying the provisions of this chapter, they shall be construed as the minimum requirement for all promotion of the public safety, health, peace and general welfare. It is not intended by this chapter to interfere with or annul any other covenants or agreements between private parties. However, from the effective date of this Land Development Code, all divisions and development of land shall conform to this chapter. When this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of buildings, or requires larger space than is imposed or required by other codes, ordinances, rules, regulations, covenants or agreements, the provisions of this chapter shall govern.

E. Conditional Approval. The following limitations apply to conditional approval of an application for a land use or limited land use permit:

1. Conditions shall be fulfilled within the time limits set forth in the approval.

2. The review authority may impose such conditions as it deems necessary to ensure compliance with the Comprehensive Plan, Land Development Code and other applicable review criteria including conditions necessary to insure the construction of transportation facilities described in the transportation system plan.

3. A request for modifications of conditions may, at the City's discretion, be processed as a new land use action.

4. The City may require a guarantee or agreement, or both, between the City and the owner, and any contract purchasers.

5. The City may refuse to grant approval for a development on land if a prior permit of any kind on the same land has not been complied with.

6. Unless otherwise noted in the conditions of approval, the applicant or its successors and assigns shall bear the entire expense of compliance with the conditions imposed.

7. The City may delay surface work (except for surveying and staking) on land if the City finds a danger of uncontrollable erosion exists, in the City's opinion, that cannot be adequately

controlled by present erosion control methods. No surface work other than surveying and staking on land having slopes of more than fifteen (15) percent shall be permitted during the months of November through April, inclusive.

F. Legislative Comment. The City has experienced land washouts, flooding of downhill sites, turbidity of streams and damage to downhill properties as a result of surface work on land during heavy precipitation and during the months of November through April despite the best of erosion control measures. The City does not want to unreasonably delay development, but finds that controls on surface work are necessary in an effort to prevent the conditions described in this legislative comment. The City further notes that it has adopted the most recent iteration of the "Erosion Prevention and Sediment Control Plan Technical Guidance Handbook" produced by Clackamas County. These erosion control measures represent latest efforts for erosion control, and although they have been applied in Happy Valley there have still been erosion control problems.

G. Noncompliance. A violation of the provisions of this chapter or failure to comply with any conditions of approval are subject to the enforcement and violations provisions provided in Sections 16.13.010 and 16.13.020. The City may withhold a certificate of occupancy until such time as the use or development is consistent with this chapter, including any conditions of approval required to assure compliance with this chapter.

Table 16.61.010-1 Summary of Approvals by Type of Review Procedure

Approvals[1]	Review Procedures	Applicable Regulations
Access Permit (public street)	Type I	Chapters 16.41, 16.62, 16.63; Engineering Standards
Annexation (non-expedited)	Type III-PC	Chapter 16.67
Annexation (expedited)	Type IV	Chapter16.67
Code Interpretation	Type I	Chapter 16.68
Comprehensive Plan Map/Land Use District Map Amendment	Less than 20 acres (applicant initiated): Type III-PC 20 acres or above (applicant initiated): Type III-PC-CC City initiated: Type IV	Chapter 16.67, Comprehensive Plan
Conditional Use Permit	Type III-PC	Chapter 16.64
Design Review—Minor	Type I	Chapter 16.62[2]
Design Review—Minor	Type II-PO	Chapter 16.62[2]
Design Review—Minor	Type II-HO	Chapter 16.62[2]
Design Review—Major	Type III-DRB	Chapter 16.62[2]
Flood Plain Development Permit	Type I	Building Code
Home Occupation Permit	Type III-HO	Section 16.69.020
Land Use Review	Type I	Chapter 16.62, Building Code

Approvals[1]	Review Procedures	Applicable Regulations
Lot Line Adjustments and Lot Consolidations, including Re-Plat	Type I	Chapter 16.63
Lot of Record Determination	Type I	Chapter 16.72
Master Planned Development	Type III-PC	Chapter 16.65
Modification to Approval		Chapter 16.66
Minor	Type I/II	
Major	Type II/III-HO	
Environmental Review Permit	Type II	Chapters 16.32, 16.34, and 16.35
Nonconforming Use or Development Confirmation	Type I	Chapter 16.72
Partition	Type II	Chapter 16.63
Planned Unit Development (4—9 lots)	Type II	Chapter 16.63
Planned Unit Development (10—49 lots)	Type III-HO	Chapter 16.63
Planned Unit Development (50 lots or larger)	Type III-PC	Chapter 16.63
Plat or Easement Vacation or Re-Plat	Type I	Chapter 16.63
Sign Permit	Type I	Chapter 16.45
Public Right-of-Way Vacation	Type IV	Chapter 16.63
Subdivision (4—9 lots)	Type II	Chapter 16.63
Subdivision (10—49 lots)	Type III-HO	Chapter 16.63
Subdivision (50 lots or larger)	Type III-PC	Chapter 16.63
Temporary Use Permit	Type I	Section 16.69.010
Text Amendment	Type III-PC/CC/IV	Chapter 16.67
Tree Removal		
Class A	Type I	Section 16.42.050
Class B	Type I	Section 16.42.050
Variance		
Class A	Type I	Section 16.71.030
Class B	Type II	Section 16.71.040

Approvals[1]	Review Procedures	Applicable Regulations
Class C	Type III-PC	Section 16.71.050

NOTES:

[1] The applicant may be required to obtain approvals from other agencies, such as a road authority or sewer district for some types of approvals. The City notifies agencies of applications that may affect their facilities or services.

[2] For an explanation of the design benchmarks delineating these types of reviews, see Table 16.62.020-1.

16.61.020 Type I procedure (administrative).

A. Application Requirements.

1. Application Forms. Type I applications shall be made on forms provided by the Planning Official or designee.

2. Application Requirements. Type I applications shall:

a. Include the information requested on the application form;

b. Address the criteria in sufficient detail for review and action; and

c. Be filed with the required fee.

B. Administrative Decision Requirements. The Planning Official or designee's decision shall address all of the approval criteria, including applicable requirements of any road authority. Based on the criteria and the facts contained within the record, the Planning Official or designee shall approve or deny the requested permit or action. A written record of the decision shall be provided to the applicant and kept on file at City Hall.

C. Final Decision. A Type I decision is the final decision of the City. It cannot be appealed to City officials.

D. Effective Date. A Type I decision is final on the date it is made.

16.61.030 Type II procedure (administrative).

A. Pre-application Conference. A pre-application conference is required for a Type II review. Pre-application conference requirements and procedures are described in Section 16.61.060.

B. Application Requirements.

1. Application Forms. Type II applications shall be made on forms provided by the Planning Official or designee.

2. Submittal Information. The application shall:

a. Include the information requested on the application form;

b. Be filed with three copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision making. Note: additional information may be required under the specific application requirements for each approval, e.g., Chapters 16.62 (Land Use Review), 16.63 (Land Divisions), 16.66 (Modifications), 16.68 (Code Interpretations), and 16.69 (Miscellaneous Permits);

c. Be accompanied by the required fee; and

d. Include one set of mailing labels for all real property owners of record who will receive a notice of the application as required in Section 16.61.040. The records of the Clackamas County Assessor's Office are the official records for determining ownership. The applicant shall prepare the public notice mailing list. The applicant shall use the most current County real property assessment records to produce the notice list. The City shall mail the notice of application.

C. Notice of Application for Type II Administrative Decision.

1. Before making a Type II Administrative Decision, the Planning Official or designee shall mail notice to:

a. All property owners of record within three hundred (300) feet of the subject site;

b. The owner of property within six hundred (600) feet of the subject site who submits a written request for notice;

c. All City-recognized neighborhood groups or associations whose boundaries include the site;

d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies; and

e. Clackamas County, METRO, and the Oregon Department of Transportation when the proposed development abuts or affects agency's transportation facility.

2. At the request of the applicant, notice shall be provided to the Oregon Department of Land Conservation and Development.

3. The purpose of the notice is to give nearby property owners and other interested people the opportunity to submit written comments about the application before the Type II decision is made. The goal of this notice is to invite people to participate early in the decision-making process.

4. Notice of a pending Type II administrative decision shall:

a. Provide a twenty-one (21) day period for submitting written comments before a decision is made on the permit;

b. List the relevant approval criteria by name and number of code sections;

c. State the place, date and time the comments are due, and the person to whom the comments should be addressed;

d. Include the name and telephone number of a contact person regarding the administrative decision;

e. Describe the proposal and identify the specific permits or approvals requested;

f. Describe the street address or other easily understandable reference to the location of the site;

g. State that if any person fails to address the relevant approval criteria with enough detail, they may not be able to appeal to the Land Use Board of Appeals or Circuit Court on that issue. Only comments on the relevant approval criteria are considered relevant evidence;

h. State that all evidence relied upon by the Planning Official or designee to make this decision is in the public record, available for public review. Copies of this evidence can be obtained at a reasonable cost from the City;

i. State that after the comment period closes, the Planning Official or designee shall issue a Type II administrative decision, and that the decision shall be mailed to the applicant and to anyone else who submitted written comments or who is otherwise legally entitled to notice;

j. Contain the following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of Happy Valley Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

D. Administrative Decision Requirements. A Type II written decision shall address all of the relevant approval criteria and standards. Based upon the criteria, standards and the evidence in the record, the Planning Official or designee shall approve, approve with conditions, or deny the application. Alternatively, the Planning Official or the applicant may refer the application to the Hearings Officer for a public hearing, in which case the review shall follow the Type III procedures in Section 16.61.040, including payment of all applicable fees.

E. Notice of Decision.

1. Within five days after the Planning Official or designee signs the decision, a notice of decision shall be sent by mail to:

a. The applicant and all owners or contract purchasers of record of the site that is the subject of the application;

b. Any person who submits a written request to receive notice, or provides comments during the application-review period;

c. Any City-recognized neighborhood group or association whose boundaries include the site; and

d. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City, and other agencies that were notified or provided comments during the application review period.

2. The Planning Official or designee shall cause an affidavit of mailing the notice to be prepared and made a part of the file. The affidavit shall show the date the notice was mailed and shall demonstrate that the notice was mailed to the parties above and was mailed within the time required by law.

3. The Type II notice of decision shall contain:

a. A description of the applicant's proposal and the City's decision on the proposal (i.e., may be a summary);

b. The address or other geographic description of the property proposed for development, including a map of the property in relation to the surrounding area, where applicable;

c. A statement of where the City's decision can be obtained;

d. The date the decision shall become final, unless appealed;

e. A statement that all persons entitled to notice may appeal the decision; and

f. A statement briefly explaining how to file an appeal, the deadline for filing an appeal, and where to obtain further information concerning the appeal process.

4. Posted Notice. In addition to any other notice, the applicant shall post the property subject to the application with at least one sign for every three hundred (300) feet of frontage. The sign shall be purchased from the City. Such sign shall remain continuously posted from at least fourteen (14) days prior to the end of the public written comment period or public hearing date, until the day after the final decision. A notarized statement of posting shall be submitted to the City recorder prior to the final decision. Failure to post the sign may result in invalidating the final decision.

F. Final Decision and Effective Date. A Type II administrative decision is final for purposes of appeal, when it is mailed by the City. A Type II administrative decision is effective on the day after the appeal period expires. If an appeal is filed, the decision is effective when the appeal is decided.

G. Appeal. A Type II administrative decision may be appealed to the Hearings Officer as follows:

1. Who May Appeal. The following people have legal standing to appeal a Type II administrative decision:

a. The applicant or owner of the subject property;

b. Any person who was entitled to written notice of the Type II administrative decision;

c. Any other person who participated in the proceeding by submitting written comments.

2. Appeal Filing Procedure.

a. Notice of Appeal. Any person with standing to appeal, as provided in subsection (G)(1), above, may appeal a Type II administrative decision by filing a notice of appeal according to the following procedures;

b. Time for Filing. A notice of appeal shall be filed with the Planning Official or designee within ten (10) days of the date the notice of decision was mailed;

c. Content of Notice of Appeal. The notice of appeal shall contain:

i. An identification of the decision being appealed, including the date of the decision;

ii. A statement demonstrating the person filing the notice of appeal has standing to appeal;

iii. A statement explaining the specific issues being raised on appeal;

iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;

v. Filing fee.

3. Scope of Appeal. Appeal of a Type II administrative decision shall be heard de novo before the Hearings Officer. The appeal is not limited to the record that was before the Planning Official. The Hearings Officer shall allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue.

4. Appeal Procedures. The notice, hearing procedures and decision process for a Type III decision shall be used for Type II administrative appeals, as provided in Section 16.61.040.

5. Further Appeal to City Council. The Hearings Officer's decision on appeal of a Type II administrative decision is the City's final decision unless appealed to City Council. An appeal to City Council shall follow the same notice and hearing procedures as the hearing before the Hearings Officer. The City Council's decision is final and effective on the date it is mailed by the City.

16.61.035 Type II-DR procedure (administrative).

A. Procedures. Except as noted below, Type II-DR applications shall follow the same procedures as Type II applications.

B. Initial Appeal. A Type II-DR administrative decision may be appealed to the Design Review Board using the appeal procedures as for an appeal of a Type II decision.

C. Appeal to the City Council. The Design Review Board's decision on appeal of a Type II-DR administrative decision is the City's final decision unless appealed to City Council. An appeal to the City Council shall follow the appeal procedures as an appeal of a Type II decision. The City Council's decision is final and effective on the date it is mailed by the City. Appeal of a Type II-DR decision shall not be heard de novo before the City Council. The appeal is limited to the record that was before the Design Review Board. The City Council shall not allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue. In limited circumstances involving the need to correct information or include information inadvertently omitted from the record by the City, the record may be re-opened by a vote of the City Council. In such limited circumstances, the City Council shall determine the scope to which the record shall be reopened.

16.61.040 Type III-HO, Type III-PC and Type III-PC/CC procedure (quasi-judicial).

A. Type III-HO, Type III-PC and Type III-PC/CC procedures apply to all quasi-judicial decisions that involve the use of discretion and include but are not limited to: non-expedited annexations; own-initiated Comprehensive Plan map/land use district map amendments or text amendments; minor Design Review; home occupation permits; Class C variances; major modifications; master plans; planned unit developments; expedited subdivisions; and conditional use permits. With the exception of an expedited annexation or Comprehensive Plan map/land use district map amendments, the public hearing for these applications occur before either the Planning Commission, Design Review Board or Hearings Officer as specified in Table 16.61.010-1.

1. An expedited annexation is processed as an ordinance pursuant to the City's Municipal Code. The City Council makes the final decision. The City Council is the only local review authority and shall decide whether to approve, approve with conditions or deny an expedited annexation request.

2. For a master plan that is combined with a Comprehensive Plan map/land use district map amendment, the Planning Commission shall make a recommendation to the City Council. The City Council is the final review authority.

B. Pre-application Conference. A pre-application conference is required for all Type III applications. The requirements and procedures for a pre-application conference are described in Section 16.61.060(C).

C. Application Requirements.

1. Application Forms. Type III applications shall be made on forms provided by the Planning Official or designee; if a Type II application is referred to a Type III hearing, either voluntarily by the applicant or staff, or upon appeal, no new application is required.

2. Submittal Information. When a Type III application is required, it shall:

a. Include the information requested on the application form;

b. Be filed with three copies of a narrative statement that explains how the application satisfies each and all of the relevant criteria and standards in sufficient detail for review and decision-making. Note: additional information may be required under the specific application requirements for each approval, e.g., Chapters 16.62 (Land Use Review), 16.63 (Land Divisions), 16.66 (Modifications), 16.68 (Code Interpretations), and 16.69 (Miscellaneous Permits);

c. Be accompanied by the required fee; and

d. Include one set of pre-addressed mailing labels for all real property owners of record who will receive a notice of the application as required in Subsection 16.61.040(D). The records of the Clackamas County Assessor's Office are the official records for determining ownership. The applicant shall prepare the public notice mailing list. The applicant shall use the most current County real property assessment records to produce the notice list. The City shall mail the notice of application.

3. Statement of Disclosure. All applications for annexations, Comprehensive Plan map/zoning map amendments, text amendments, variances, conditional use permits, subdivisions, planned unit developments, etc. and all appeals shall be accompanied by a statement of ownership or interest disclosure.

D. Notice of Hearing.

1. Mailed Notice. The City shall mail notice of a Type II or Type III hearing to the record owner of real property as shown in the records of the Clackamas County Assessor's Office. Notice of a Type III hearing or Type II appeal hearing shall be given by the Planning Official or designee in the following manner:

a. At least twenty-one (21) days before the hearing date, notice shall be mailed to:

i. The applicant and all owners or contract purchasers of record of the property that is the subject of the application;

ii. All property owners of record within three hundred (300) feet of the subject site;

iii. An owner of real property within six hundred (600) feet of the subject site who submits a written request for notice;

iv. Clackamas County, Clackamas Fire District No. 1 or its successor in interest, Sunrise Water Authority, Clackamas River Water or its successor in interest, school districts, public or private utility districts or agencies and any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City. The City may notify other affected agencies;

v. The road authority, and rail authority and owner, when the proposed development abuts or affects their transportation facility;

vi. The owner of an airport in the vicinity shall be notified in accordance with ORS 227.175 when the application proposes a zone change;

vii. Any neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;

viii. For an appeal, the applicant, the appellant and all persons who provided testimony in the original decision;

ix. For a land use district change affecting a manufactured home or mobile home park, all mailing addresses within the park, in accordance with ORS 227.175; and

x. For expedited annexations, all interested and necessary parties, as defined by the Metro Code, shall be notified by mail.

b. The Planning Official or designee shall have an affidavit of notice be prepared and made a part of the file. The affidavit shall state the date that the notice was mailed to the persons who must receive notice.

c. At least fourteen (14) business days before the hearing, notice of the hearing shall be printed in a newspaper of general circulation in the City. The newspaper's affidavit of publication of the notice shall be made part of the administrative record.

2. Posted Notice. In addition to any other notice, the applicant shall post the property subject to the application with at least one sign for every three hundred (300) feet of frontage. The sign shall be purchased from the City. Such sign shall remain continuously posted from at least fourteen (14) days prior to the end of the public written comment period. A notarized statement of posting shall be submitted to the Planning Official or designee prior to the public hearing.

3. Content of Notice. Notice of appeal of a Type II administrative decision or notice of a Type III hearing to be mailed and published pursuant to subsection (D)(1) above shall contain the following information:

a. The nature of the application and the proposed land use or uses that could be authorized for the property;

b. The applicable criteria and standards from the development code(s) that apply to the application;

c. The street address or other easily understood geographical reference to the subject property;

d. The date, time, and location of the public hearing;

e. A statement that the failure to raise an issue in person, or by letter at the hearing, or failure to provide statements or evidence sufficient to afford the decision-maker an opportunity to respond to the issue, means that an appeal based on that issue cannot be filed with the State Land Use Board of Appeals;

f. The name of a City representative to contact and the telephone number where additional information on the application may be obtained;

g. A statement that a copy of the application, all documents and evidence submitted by or for the applicant, and the applicable criteria and standards can be reviewed at Happy Valley City Hall at no cost and that copies shall be provided at a reasonable cost;

h. A statement that a copy of the City's staff report and recommendation to the hearings body shall be available for review at no cost at least seven days before the hearing, and that a copy shall be provided on request at a reasonable cost;

i. A general explanation of the requirements to submit testimony, and the procedure for conducting public hearings; and

j. The following notice: "Notice to mortgagee, lien holder, vendor, or seller: The City of City of Happy Valley Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

E. Conduct of the Public Hearing.

1. At the commencement of the hearing, the review body shall state:

a. The applicable approval criteria and standards that apply to the application or appeal;

b. That testimony and evidence shall concern the approval criteria described in the staff report, or other criteria in the Comprehensive Plan or land use regulations that the person testifying believes to apply to the decision and that the applicant must raise any constitutional objections on the record (or they cannot be raised on appeal);

c. That failure to raise an issue with sufficient detail to give the hearings body and the parties an opportunity to respond to the issue, means that no appeal may be made to the City Council or State Land Use Board of Appeals on that issue;

d. Before the conclusion of the initial evidentiary hearing, any participant may ask for an opportunity to present additional relevant evidence or testimony that is within the scope of the hearing. The hearings body shall grant the request by scheduling a date to finish the hearing (a "continuance"), or by leaving the record open for additional written evidence or testimony;

e. The City shall allow the applicant at least seven days after the record is closed to all other persons to submit final written arguments in support of the application, unless the applicant expressly waives this right. The applicant's final submittal may not include any new evidence.

2. If the review body grants a continuance, the hearing shall be continued to a date, time, and place at least seven days after the date of the prior hearing. An opportunity shall be provided at the subsequent hearing for persons to present and respond to new written evidence and oral testimony. If new written evidence is submitted at the second hearing, any person may request, before the conclusion of the second hearing, that the record be left open for at least seven days, so that they can submit additional written evidence or testimony in response to the new written evidence.

3. If the review body leaves the record open for additional written evidence or testimony, the record shall be left open for at least seven days after the hearing. Any participant may ask the City in writing for an opportunity to respond to new evidence submitted during the period that the record was left open. If such a request is filed, the review body shall reopen the record.

a. When the review body reopens the record to admit new evidence or testimony, any person may raise new issues that relate to that new evidence or testimony.

b. An extension of the hearing or record granted pursuant to Subsection 16.61.040(E) is subject to the limitations of ORS 227.178 ("120-day rule"), unless the continuance or extension is requested or agreed to by the applicant.

c. The record shall contain all testimony, evidence and argument that is submitted to the City and that the hearings body has not rejected.

d. In making its decision, the hearings body may take notice of facts not in the hearing record (e.g., local, state, or Federal regulations; previous City decisions; case law). The review authority must announce its intention to take notice of such facts in its deliberations, and allow persons who previously participated in the hearing to request the hearing record be reopened, if necessary, to present evidence concerning the noticed facts.

4. Participants in the appeal of a Type II administrative decision or participants in a Type III hearing are entitled to an impartial review and decision.

a. At the beginning of the public hearing, a member of the review body shall disclose the substance of any ex parte contacts (as defined in Subsection 16.61.040(E)(9) below). The member shall state whether the contact has impaired the member's impartiality or ability to vote on the matter and shall participate or abstain accordingly.

b. A member of the review body shall not participate in any proceeding in which the member, or any of the following, has a direct or substantial financial interest: the member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which the member is then serving or has served within the previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the hearing where the action is being taken.

c. Disqualification of a member of the review body due to ex parte contacts, bias or a conflict of interest may be ordered by a majority of the members present and voting. The member who is the subject of the motion may not vote on the motion to disqualify.

d. If, due to abstaining or disqualification, a quorum of the Planning Commission is not obtainable, the City Council shall be the review body. If all members of the City Council abstain or are disqualified, a quorum of those City Council members present who declare their reasons for abstention or disqualification shall be re-qualified to make a decision.

e. Any member of the public may raise conflict of interest issues prior to or during the hearing and the member of the hearings body shall reply in accordance with this section.

5. Ex Parte Communications.

a. Members of the review body shall not:

i. Communicate directly or indirectly with any applicant, appellant, other party to the proceedings, or representative of a party about any issue involved in a hearing without giving notice as provided in subsection C above;

ii. Take official notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case, unless all participants are given the opportunity to respond.

b. A decision or action of the review body shall not be invalid due to ex parte contacts or bias resulting from ex parte contacts, if the person receiving contact:

i. Places in the record the substance of any written or oral ex parte communications concerning the decision or action; and

ii. Makes a public announcement of the content of the communication and of all participants' right to dispute the substance of the communication made. This announcement shall be made at the first hearing following the communication during which action shall be considered or taken on the subject of the communication.

c. A communication between City staff and the review body is not considered an ex parte contact.

6. Presenting and Receiving Evidence.

a. The review body may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious or irrelevant testimony or evidence;

b. Oral testimony shall not be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, only as provided in Subsection 16.61.040(E);

c. Members of the review body may visit the property and the surrounding area, and may use information obtained during the site visit to support their decision, if the information relied upon is disclosed at the beginning of the hearing and an opportunity is provided to dispute the evidence.

F. The Decision Process.

1. Basis for Decision. Approval or denial of an appeal of a Type II administrative decision or of a Type III application shall be based on standards and criteria in this Development Code. The standards and criteria shall relate approval or denial of a discretionary development permit application to the development regulations and, when appropriate, to the Comprehensive Plan for the area in which the development would occur and to the development regulations and Comprehensive Plan for the City as a whole.

2. Findings and Conclusions. Approval or denial shall be based upon the criteria and standards considered relevant to the decision. The written decision shall explain the relevant criteria and standards, state the facts relied upon in rendering the decision, and justify the decision according to the criteria, standards, and facts.

3. Form of Decision. The review body shall issue a final written order containing the findings and conclusions stated in subsection (F)(2). The order shall either approve, approve with conditions or deny the application. The review body may also issue appropriate intermediate rulings when more than one permit or decision is required.

4. Decision-Making Time Limits. The final order for a Type II administrative appeal or Type III application shall be filed with the Planning Official or designee within ten (10) business days after the close of the public record.

5. Notice of Decision. Written notice of a Type II administrative appeal decision or a Type III application decision shall be mailed to the applicant and to all participants of record within ten (10) business days after the hearings body decision. Failure of a person to receive mailed

notice shall not invalidate the decision provided a good faith attempt was made to mail the notice.

6. Final Decision and Effective Date. The decision of the hearings body on any Type II appeal or any Type III application is final for purposes of appeal on the date it is mailed by the City. The decision is effective on the day after the appeal period expires. If an appeal is filed, the decision becomes effective on the day after the appeal is decided by the City Council.

G. Appeal. A Type III decision may be appealed to the City Council as follows.

1. Who May Appeal. The following people may appeal a Type III decision:

a. The applicant or owner of the subject property;

b. Any person who was entitled to written notice of the Type III decision;

c. Staff or any other person who participated or appeared in the proceeding by either written or oral communication.

2. Appeal Filing Procedure.

a. Notice of Appeal. A person may appeal a Type III decision by filing a notice of appeal according to the following procedures;

b. Time for Filing. A notice of appeal shall be filed with the Planning Official or designee within fourteen (14) days of the date the notice of decision was mailed;

c. Content of Notice of Appeal. The notice of appeal shall contain:

i. An identification of the decision being appealed, including the date of the decision;

ii. A statement demonstrating the person filing the notice of appeal has standing to appeal;

iii. A statement specifying the issues being raised on appeal;

iv. If the appellant is not the applicant, a statement demonstrating that the appeal issues were raised during the comment period;

v. The filing fee.

3. Scope of Appeal. Appeal of Type III decisions shall not be heard de novo before the City Council. The appeal is limited to the record that was before the review body. The City Council shall not allow additional evidence, testimony or argument concerning any relevant standard, criterion, condition, or issue. In limited circumstances involving the need to correct information or include information inadvertently omitted from the record by the City, the record may be re-opened by a vote of the City Council. In such limited circumstances, the City Council shall determine the scope to which the record shall be reopened.

4. Appeal Procedures. The notification and hearings procedures for Type III applications on appeal to the City Council shall be the same as for the initial hearing.

5. Further Appeal of the City Council's Decision. The decision of the City Council on an appeal is final and effective on the date it is signed on behalf of the City Council. The City Council's decision may be appealed to the State Land Use Board of Appeals as provided by law.

16.61.045 Type III-DR procedure (quasi-judicial).

A. Procedures. Except as noted below, Type III-DR applications shall follow the same procedures as Type III applications. For a Type III-DRB hearing, if sufficient members of the Design Review Board abstain or are disqualified such that the Board cannot achieve a quorum, the City Council shall be the hearing body. If sufficient members of the City Council abstain or are disqualified such that the Council cannot achieve a quorum, a quorum of those City Council members present who declare their reasons for abstention or disqualification shall make the decision. For a Type III-HO hearing, if the Hearings Officer has a conflict or otherwise cannot participate in the hearing, the hearing shall be conducted by an alternate Hearings Officer.

B. Appeal. A Type III-DR quasi-judicial decision may be appealed to the City Council using the appeal procedures as for an appeal of a Type III decision.

16.61.050 Type IV procedure (legislative).

A. Pre-Application Conference. A pre-application conference is required for all Type IV applications initiated by a party other than the City of Happy Valley. The requirements and procedures for a pre-application conference are described in Section 16.61.060(C).

B. Application Requirements.

1. Application Forms. Type IV applications shall be made on forms provided by the Planning Official or designee.

2. Submittal Information. The application shall contain:

a. The information requested on the application form;

b. A map and/or plan addressing the appropriate criteria and standards in sufficient detail for review and decision (as applicable);

c. The required fee; and

d. Three copies of a letter or narrative statement that explains how the application satisfies each and all of the relevant approval criteria and standards.

C. Notice of Hearing.

1. Required Hearings. A minimum of two hearings, one before the Planning Commission and one before the City Council, are required for all Type IV applications.

2. Notification Requirements. Notice of public hearings for the request shall be given by the Planning Official or designee in the following manner:

a. At least twenty (20) days, but not more than forty (40) days, before the date of the first hearing on an ordinance that proposes to amend the Comprehensive Plan or any element thereof, or to adopt an ordinance that proposes to rezone property, a notice shall be prepared in conformance with ORS 227.186 and mailed to:

i. The record owner of real property as shown on the County tax roll that will be rezoned in order to implement the ordinance (including owners of property subject to a Comprehensive Plan amendment shall be notified if a zone change would be required to implement the proposed Comprehensive Plan amendment);

ii. Any affected governmental agency;

iii. The owner of real property as shown on the County tax roll within six hundred (600) feet of the area to be rezoned who submits a written request for notice;

iv. For a zone change affecting a manufactured home or mobilehome park, all mailing addresses within the park, in accordance with ORS 227.175;

v. The owner of an airport shall be notified of a proposed zone change in accordance with ORS 227.175.

b. At least ten (10) days before the scheduled Planning Commission public hearing date, and fourteen (14) days before the City Council hearing date, public notice shall be published in a newspaper of general circulation in the City.

c. The Planning Official or designee shall:

i. For each mailing of notice, file an affidavit of mailing in the record as provided by subsection (C)(1)(a) of this section; and

ii. For each published notice, file in the record the affidavit of publication in a newspaper that is required in subsection (C)(1)(b) of this section.

d. The Oregon Department of Land Conservation and Development (DLCD) shall be notified in writing of proposed Comprehensive Plan and Development Code amendments at least thirty-five (35) days before the first public hearing at which public testimony or new evidence will be received. The notice to DLCD shall include a DLCD Certificate of Mailing.

e. Notifications for annexation shall follow the provisions of this chapter.

3. Content of Notices. The mailed and published notices shall include the following information:

a. The number and title of the file containing the application, and the address and telephone number of the Planning Official or designee's office where additional information about the application can be obtained;

b. The proposed site location;

c. A description of the proposed site and the proposal in enough detail for people to determine what change is proposed, and the place where all relevant materials and information may be obtained or reviewed;

d. The time(s), place(s), and date(s) of the public hearing(s); a statement that public oral or written testimony is invited; and a statement that the hearing will be held under this title and rules of procedure adopted by the Council and available at City Hall; and

e. Each mailed notice required by Section 16.61.050(C) shall contain the following statement: "Notice to mortgagee, lien holder, vendor, or seller: The City of Happy Valley Land Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."

4. Failure to Receive Notice. The failure of any person to receive notice shall not invalidate the action, providing:

a. Personal notice is deemed given where the notice is deposited with the United States Postal Service;

b. Published notice is deemed given on the date it is published.

D. Hearing Process and Procedure.

1. Unless otherwise provided in the rules of procedure adopted by the City Council:

a. The presiding officer of the Planning Commission and of the City Council shall have the authority to:

i. Regulate the course, sequence, and decorum of the hearing;

ii. Direct procedural requirements or similar matters; and

iii. Impose reasonable time limits for oral presentations.

b. No person shall address the Commission or the Council without:

i. Receiving recognition from the presiding officer; and

ii. Stating their full name and address.

c. Disruptive conduct such as applause, cheering, or display of signs shall be cause for expulsion of a person or persons from the hearing, termination or continuation of the hearing, or other appropriate action determined by the presiding officer.

2. Unless otherwise provided in the rules of procedures adopted by the Council, the presiding officer of the Planning Commission, Design Review Board and of the Council shall conduct the hearing as follows:

a. The presiding officer shall begin the hearing with a statement of the nature of the matter before the body, a general summary of the procedures, a summary of the standards for decision-making, and whether the decision which will be made is a recommendation to the City Council or the final decision of the Council;

b. The Planning Official or designee's report and other applicable staff reports shall be presented;

c. The public shall be invited to testify;

d. The public hearing may be continued to allow additional testimony or it may be closed; and

e. The body's deliberation may include questions to the staff, comments from the staff, and inquiries directed to any person present.

E. Continuation of the Public Hearing. The Planning Commission or the City Council may continue any hearing, and no additional notice of hearing shall be required if the matter is continued to a specified place, date, and time.

F. Decision-Making Criteria. The recommendation by the Planning Commission and the decision by the City Council shall be based on the following factors:

1. Approval of the request is consistent with the Statewide planning goals;

2. Approval of the request is consistent with the Comprehensive Plan and any pertinent ancillary documents or plans adopted by the City; and

3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with the development of the property.

G. Approval Process and Authority.

1. The Planning Commission shall:

a. After notice and a public hearing, vote on and prepare a recommendation to the City Council to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative; and

b. Within fourteen (14) business days of determining a recommendation, the presiding officer shall sign the written recommendation, and it shall be filed with the Planning Official or designee.

2. Any member of the Planning Commission who votes in opposition to the Planning Commission's majority recommendation may file a written statement of opposition with the Planning Official or designee before the Council public hearing on the proposal. The Planning Official or designee shall send a copy to each Council member and place a copy in the record;

3. If the Planning Commission fails to adopt a recommendation to approve, approve with modifications, approve with conditions, deny the proposed change, or adopt an alternative proposal within sixty (60) days of its first public hearing on the proposed change, the Planning Official or designee shall:

a. Report the failure together with the proposed change to the City Council; and

b. Provide notice and put the matter on the City Council's agenda for the City Council to hold a public hearing make a decision. No further action shall be taken by the Commission.

4. The City Council shall:

a. Approve, approve with modifications, approve with conditions, deny, or adopt an alternative to an application for legislative change, or remand the application to the Planning Commission for rehearing and reconsideration on all or part of the application;

b. Consider the recommendation of the Planning Commission; however, the City Council is not bound by the Commission's recommendation; and

c. Act by ordinance, which shall be signed by the Mayor after the Council's adoption of the ordinance.

H. Vote Required for a Legislative Change.

1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for approval, approval with modifications, approval with conditions, denial or adoption of an alternative.

2. A vote by a majority of the qualified members of the City Council present is required to decide any motion made on the proposal.

I. Notice of Decision. Notice of a Type IV decision shall be mailed to the applicant, all participants of record, and the Department of Land Conservation and Development, within five business days after the City Council decision is filed with the Planning Official or designee. The City shall also provide notice to all persons as required by other applicable laws.

J. Final Decision and Effective Date. A Type IV decision, if approved, shall take effect and shall become final as specified in the enacting ordinance, or if not approved, upon mailing of the notice of decision to the applicant.

K. Record of the Public Hearing.

1. A verbatim record of the proceeding shall be made by stenographic, mechanical, or electronic means. It is not necessary to transcribe an electronic record. The minutes and other evidence presented as a part of the hearing shall be part of the record.

2. All exhibits received and displayed shall be marked to provide identification and shall be part of the record.

3. The official record shall include:

a. All materials considered by the hearings body;

b. All materials submitted by the Planning Official or designee to the hearings body regarding the application;

c. The verbatim record made by the stenographic, mechanical, or electronic means; the minutes of the hearing; and other documents considered;

d. The final ordinance;

e. All correspondence; and

f. A copy of the notices that were given as required by this chapter.

16.61.060 General provisions—120-day rule; time computation; pre-application conferences; acceptance and review; planning official's duties, amended applications; re-submittal; reconsiderations.

A. 120-day Rule. The City shall take final action on Type I—III applications, including resolution of all appeals, within one hundred twenty (120) days from the date the application is deemed complete, unless the applicant requests an extension in writing. Any exceptions to this rule shall conform to the provisions of ORS 227.178.

B. Time Computation. In computing any period of time prescribed or allowed by this chapter, the day of the act or event from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday or legal holiday, including Sunday, in which event, the period runs until the end of the next day which is not a Saturday or legal holiday.

C. Pre-application Conference.

1. Participants. When a pre-application conference is required, the applicant shall meet with the Planning Official or his/her designee(s) and other parties as appropriate.

2. Submittal Requirements. At the time of the pre-application conference, the developer applicant shall submit sketches, drawings, plans and descriptions as may be necessary to convey the following information to staff. This information shall be presented informally and shall not be used for the purposes of making any decisions or obtaining any commitment from the City, or the applicant.

a. Proposed land use and densities;

b. Building types;

c. Circulation pattern;

d. Open space and recreation facilities;

e. Existing features, both natural and manmade;

f. Available services and facilities, including sanitary and storm sewers, water, natural gas, mass transit, schools, police protection, fire protection and other pertinent and appropriate services and facilities;

g. Land dedication or fees in lieu of dedication.

3. Information Provided. Based on the information provided by the applicant, the Planning Official or designee at the pre-application conference shall:

a. Reasonably identify the Comprehensive Plan/Zoning Map designations/districts applicable to the proposal;

b. Cite the ordinance provisions, including substantive and procedural requirements applicable to the proposal;

c. Provide available technical data and assistance that will aid the applicant;

d. Identify other governmental policies and regulations that relate to the application; and

e. Reasonably identify other opportunities or constraints concerning the application.

4. Disclaimer. Failure of the Planning Official or designee to provide any of the information required by this subsection C shall not constitute a waiver of any of the standards, criteria or requirements for the application.

5. Changes in the Law. Due to possible changes in Federal, State, regional, and local law, the applicant is responsible for ensuring that the application complies with all applicable laws on the day the application is deemed complete.

D. Acceptance and Review of Applications.

1. Initiation of Applications.

a. Applications for approval under this chapter may be initiated by:

i. Order of City Council;

ii. Resolution of the Planning Commission;

iii. The Planning Official or designee;

iv. A record owner of property (person(s) whose name is on the most recently recorded deed), or contract purchaser with written permission from the record owner.

b. Any person authorized to submit an application for approval may be represented by an agent authorized in writing to make the application on their behalf.

2. Consolidation of Proceedings. When an applicant applies for more than one type of land use or development permit (e.g., Type II and III) for the same one or more parcels of land, the proceedings may be consolidated for review and decision at the discretion of the City.

a. For Type I—III applications, if more than one approval authority would be required to decide the applications if submitted separately, a consolidated decision shall be made by the approval authority with jurisdiction over one of the applications in the following order: the City Council, the Planning Commission, Hearings Officer or the Planning Official or designee. When proceedings are consolidated:

i. The notice shall identify each application to be decided;

ii. An application that is dependent on approval of a higher ranking application shall follow the higher-ranking decisions. For example, a Comprehensive Plan map amendment/zone change must proceed a subdivision or PUD approval; and

iii. Combined findings and decisions may be made on each application.

b. Type II-DR appeals and Type III applications shall be heard by the Planning Commission, Hearings Officer or Design Review Board (as applicable); however, when an applicant applies for more than one type of land use or development permit (e.g., Type III and III-DR) for the same one or more parcels of land, the proceedings for review and decision shall be processed consecutively, with the non-design review applications occurring first. For example, a Type III conditional use permit before the Hearings Officer shall precede a Type III-DR development application.

3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

a. Acceptance. When an application is received by the City, the Planning Official or designee shall immediately determine whether the following essential items are present. If the following items are not present, the application shall not be accepted and shall be immediately returned to the applicant:

i. The required form;

ii. The required fee;

iii. The signature of the applicant on the required form and signed written authorization of the property owner of record if the applicant is not the owner.

b. Completeness.

i. Review and Notification. After the application is accepted, the Planning Official or designee shall review the application for completeness. If the application is incomplete, the Planning Official or designee shall notify the applicant in writing of exactly what information is missing within thirty (30) days of receipt of the application and allow the applicant one hundred eighty (180) days from first submittal, to submit the missing information, or to submit a refusal statement;

ii. Application Deemed Complete for Review. In accordance with the application submittal requirements of this chapter, the application shall be deemed complete upon the receipt by the Planning Official or designee of all required information. The applicant shall have the option of withdrawing the application, or refusing to submit information requested by the Planning Official or designee in Section 16.61.060(D)(3)(b)(1), above. For the refusal to be valid, the refusal shall be made in writing and received by the Planning Official or designee no later than fourteen (14) days after the date on the Planning Official or designee's letter of incompleteness. If the applicant refuses in writing to submit the missing information, the application shall be deemed complete on the 31st day after the Planning Official or designee first accepted the application.

iii. Standards and Criteria that Apply to the Application. Approval or denial of the application shall be based upon the standards and criteria that were applicable at the time it was first accepted.

iv. Coordinated Review. The City shall also submit the application for review and comment to the City Engineer, road authority, and other applicable County, State, and Federal review agencies.

4. Changes or Additions to the Application During the Review Period. Once an application is deemed complete:

a. All documents and other evidence relied upon by the applicant shall be submitted to the Planning Official or designee at least seven days before the notice of action or hearing is mailed, if possible. Documents or other evidence submitted after that date shall be received by Planning Official or designee, and transmitted to the hearings body, but may be too late to include with the staff report and evaluation.

b. When documents or other evidence are submitted by the applicant during the review period but after the application is deemed complete, the assigned review person or body shall determine whether or not the new documents or other evidence submitted by the applicant significantly change the application.

c. If the assigned reviewer determines that the new documents or other evidence significantly change the application, the reviewer shall include a written determination that a significant change in the application has occurred as part of the decision. In the alternate, the reviewer may inform the applicant either in writing, or orally at a public hearing, that such changes may constitute a significant change (see "d", below), and allow the applicant to withdraw the new materials submitted, in order to avoid a determination of significant change.

d. If the applicant's new materials are determined to constitute a significant change in an application that was previously deemed complete, the City shall take one of the following actions, at the choice of the applicant:

i. Continue to process the existing application and allow the applicant to submit a new second application with the proposed significant changes. Both the old and the new applications will proceed, but each will be deemed complete on different dates and may therefore be subject to different criteria and standards and different decision dates;

ii. Suspend the existing application and allow the applicant to submit a new application with the proposed significant changes. Before the existing application can be suspended, the applicant must consent in writing to waive the 120-day rule (Section 16.61.060(A) above) on the existing application. If the applicant does not consent, the City shall not select this option;

iii. Reject the new documents or other evidence that has been determined to constitute a significant change, and continue to process the existing application without considering the materials that would constitute a significant change. The City will complete its decision-making process without considering the new evidence.

e. If a new application is submitted by the applicant, that application shall be subject to a separate check for acceptance and completeness and will be subject to the standards and criteria in effect at the time the new application is accepted.

E. Planning Official's Duties. The Planning Official or designee shall:

1. Prepare application forms based on the criteria and standards in applicable state law, the City's Comprehensive Plan, and implementing ordinance provisions;

2. Accept all development applications that comply with Section 16.61.060;

3. Prepare a staff report that summarizes the application(s) and applicable decision criteria, and provides findings of conformance and/or nonconformance with the criteria. The staff report may also provide a recommended decision of: approval, denial, or approval with specific conditions that ensure conformance with the approval criteria;

4. Prepare a notice of the proposed decision:

a. In the case of an application subject to a Type I—III review process, the Planning Official or designee shall make the staff report and/or decision and all case-file materials available at the time that the notice of the decision is issued,

b. In the case of an application subject to a public hearing, the Planning Official or designee shall make the staff report available to the public at least seven days prior to the scheduled hearing date, and make the case-file materials available when notice of the hearing is mailed, as provided by this title;

5. Administer the hearings process;

6. File notice of the final decision in the City's records and mail a copy of the notice of the final decision to the applicant, all persons who provided comments or testimony, persons who requested copies of the notice; and any other persons entitled to notice by law;

7. Maintain and preserve the file for each application for the time period required by law. The file shall include, as applicable, a list of persons required to be given notice and a copy of the notice given; the affidavits of notice, the application and all supporting information; the staff report; the final decision including the findings, conclusions and conditions, if any; all correspondence; minutes of any meeting at which the application was considered; and any other exhibit, information or documentation which was considered by the decision-maker(s) on the application; and

8. Administer the appeals and review process.

F. Amended Decision Process.

1. The purpose of an amended decision process is to allow the Planning Official or designee to correct typographical errors, rectify inadvertent omissions and/or make other minor changes that do not materially alter the decision.

2. The Planning Official or designee may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired. If such a decision is amended, the decision shall be issued within fourteen (14) business days after the original decision would have become final, but in no event beyond the one hundred twenty (120) day period required by state law. A new ten (10) day appeal period shall begin on the day the amended decision is issued.

3. Notice of an amended decision shall be given using the same mailing and distribution list as for the original decision notice.

4. Modifications to approved plans or conditions of approval requested by the applicant shall follow the procedures in Chapter 16.66. All other changes to decisions that are not modifications under Chapter 16.66 follow the appeal process.

G. Re-submittal of Application Following Denial. An application that has been denied, or an application that was denied and on appeal or review has not been reversed by a higher authority, including the Land Use Board of Appeals, the Land Conservation and Development Commission or the courts, may not be resubmitted as the same or a substantially similar proposal for the same land for a period of at least twelve (12) months from the date the final City action is made denying the application, unless there is substantial change in the facts or a change in City policy that would change the outcome, as determined by the Planning Official or designee.

H. Appeal Process. An appeal shall be to a de novo hearing using the Type III procedure described in Section 16.61.040. The appeal shall not be limited to the application materials, evidence or specific issues raised in the proceeding below. The Hearings Officer, Planning Commission or City Council may allow additional evidence, testimony, or argument concerning any standard, criterion, condition, or issue relevant to the original application.

I. Reconsideration of Permit Approvals.

1. Purpose. The ability to reconsider publicly a land use or limited land use approval provides an opportunity to determine if the use or development is in compliance with this chapter. It also allows for clarification of prior land use approvals. As part of this reconsideration, the ability to add new conditions or revoke the approval provides a strong enforcement mechanism and/or an opportunity to improve the terms of the development.

2. Situations When Permit Approvals May Be Reconsidered. All quasi-judicial land use and limited land use approvals and master plans, except plan amendments and zone changes, and those uses that become conditional uses or nonconforming uses due to a change of zoning regulations, mapping or annexation, may be reconsidered upon a request by the City Manager to the City Council. A decision may be reconsidered by the City Council if there is evidence of any of the following:

a. One or more conditions of the approval have not been implemented or have been violated;

b. The activities of the use, or the use itself, are substantially different from what was approved;

c. The use is subject to the conditional use or nonconforming use regulations, has not been subject to a conditional use or nonconforming use review, and has substantially changed its activities. or substantially increased the intensity of its operations since it became a conditional use or a nonconforming use;

d. When the City and the applicant agree that the approval terms and/or conditions can be improved; and

e. Reconsideration will not cause the City to violate the deadline for a final local decision (i.e., the “120-day” deadline), including any extensions requested by the applicant.

3. Initiating the Reconsideration. The City Manager and designee may initiate a reconsideration if there is substantial evidence that one of the situations described applies to the use or development. The evidence relied on shall be made part of the record. The reconsideration may be initiated any time after thirty (30) days have passed from the first notice of violation pursuant to subparagraphs (a), (b) and (c) in the preceding paragraph.

4. Procedure for Reconsideration by Review Authority.

a. After initiation, the reconsideration is processed using the public hearings procedure. An application does not have to be submitted, a preapplication conference is not required, and a fee shall not be charged.

b. The review authority shall be the City Council.

c. Notice.

i. The property owner, applicant or operator of the site shall be notified that the reconsideration process has been initiated. This notice shall be mailed at least twenty (20) days prior to the scheduled hearing. Written comments from the property owner, applicant, or operator shall be received fifteen (15) days prior to the public hearing date to be included in the staff report.

ii. Additional Public Notice. In addition to people who are mailed notice pursuant to the public hearing procedure requirements, people who have complained or otherwise provided comment or input in writing about the use or development shall also be mailed notice of the hearing.

5. Possible Actions at the Reconsideration Hearing. Depending on the situation, the review authority may take any of the actions described below. The review authority may not approve the new use or one more intense than originally approved unless the possibility of this change has been stated in the public notice:

a. Uses or development which are alleged to have not fulfilled conditions or are alleged to be different from what was approved or which violate conditions are subject to the following actions:

i. The review authority may find that the use or development is complying with the conditions of the approval. In this case, the use or development is allowed to continue.

ii. The review authority may find that the use or development does not fully comply with the conditions of approval, but that the violations are not substantial enough to warrant revocation, and that the use can comply with the original approval criteria if the conditions are met. In this case, the review authority may modify the existing conditions, add new conditions to ensure compliance with the approval criteria, and refer the case to the City Manager for enforcement of the existing conditions.

iii. The review authority may revoke the approval if it finds that there are substantial violations of conditions or failure to implement conditions of prior land use decisions, such that the original approval criteria for the use or development are not being met.

b. Where the City Manager and the applicant convince the review authority that the development terms can be improved and the review authority so finds, the review authority may modify the terms of development approval.

J. Reconsideration of Conditional and Nonconforming Uses. Conditional uses and nonconforming uses that have not been subject to a land use review by the City are subject to the following actions:

1. The review authority may find that the use and its activities, including its intensity, are consistent with what was on the site at the time it became a conditional or nonconforming use. In this case, the use may continue.

2. The review authority may find that the use and its activities are substantially different from what was on the site at the time it became a conditional use or nonconforming use and that the differences do not comply with the current approval criteria for the site. In this case, the review authority may apply conditions or restrictions or require an application for a development permit to ensure that the differences comply with the approval criteria.

K. Enforcement of Revocation. In the event that the land use or limited land use approval is revoked, the use or development becomes illegal. The use or development shall be terminated within thirty (30) days of the date the revocation final order is signed by the City Council, unless the decision provides otherwise. Revocation actions are appealable pursuant to land use decision appeals. The filing of an appeal shall stay the revocation action but not any other action taken by the City.

L. Use of New Regulations or Mapping. Applications shall not be accepted for building permits or land use reviews based on plan amendments, zone changes or land use regulations that have been approved but are not yet effective. However, preapplication conferences may be requested and held.

M. Prior Conditions of Land Use Approvals.

1. Incorporating Prior Conditions of Land Use Actions. Over time, there are instances when uses or development previously approved with conditions are subject to new zoning regulations. This may result from a change of the content of zoning regulations or from legislative zone changes including annexation rezonings. This subsection addresses situations where a use or development was approved with conditions as a part of a land use or limited land use review under zoning regulations that no longer apply to the site. The regulations stated below apply to all prior conditions of approval unless the conditions of approval or the ordinance adopting the conditions specifically refer to the situations outlined below and provide for the continuance of the conditions. In that instance, the conditions of approval will continue to apply.

2. Zone Changes. If a site is subject to conditions as the result of a zone change, the conditions continue to apply if the site is rezoned to a comparable zone as part of an annexation rezoning or as part of a legislative remapping.

3. Conditional Uses.

a. An Allowed Conditional Use. If a use was an approved conditional use under the prior regulations, and is a conditional use under the new regulations pertaining to the site, any conditions of approval shall continue to apply.

b. Use Allowed Outright. If the use is a permitted use, the conditions of approval shall continue to apply.

c. Use No Longer Allowed. If the use was a conditional use without an expiration date and is no longer allowed, it becomes a nonconforming use under the new regulations, and shall continue to meet the conditions, as well as the nonconforming use regulations.

4. Variances. If the variance was to a standard or regulation which is now allowed, and the development on the site conforms with the current regulations, then the prior variance conditions of approval no longer apply.

5. Other Land Use Actions. If the use or development was approved with conditions under a review which is no longer in effect on the site, the conditions continue to apply.

16.61.070 Special procedures.

A. Expedited Land Divisions. An expedited land division ("ELD") shall be defined and may be used as provided under ORS 197.360 through 197.380.

1. Selection. An applicant who wishes to use an ELD procedure for a partition, subdivision or planned development instead of the regular procedure type assigned to it, must request the use of the ELD in writing at the time the application is filed, or forfeit the right to use it.

2. Review Procedure and approval criteria. All applications for expedited land divisions shall comply with ORS 197.360 through 197.380, the Happy Valley Comprehensive Plan, zoning designation, and submittal requirements in 16.61.030.B.2. ORS 197.360 through ORS 197.380 details the criteria, application and notice requirements, and action and appeal procedures for expedited land divisions.

a. For an ELD to be considered for a townhome, duplex, triplex, quadplex or cottage development, the proposed division must demonstrate how it complies with the following:
   i. The parent lot is zoned for residential use and is within the urban growth boundary.
   ii. The parent lot is solely for the purpose of residential use, including recreational or open space uses accessory to residential use.

b. The land division will not provide for dwellings or accessory buildings to be located on land that is within the following overlay zones:
   i. Steep Slopes Development Overlay Zone (LDC 16.32)
   ii. Historic Properties Overlay Zone (LDC 16.33)
   iii. Natural Resources Overlay Zone (LDC 16.34)
   iv. Flood Management Overlay Zone (LDC 16.35)

c. The land division satisfies minimum street or other right-of-way connectivity standards established by the City's Transportation System Plan, Engineering Design Manual, and the Land Development Code.

d. The land division will result in development that either:
   v. Creates enough lots or parcels to allow building residential units at 80 percent or more of the maximum net density permitted by the zoning designation of the site; or
   vi. All dwellings will be sold or rented to households with incomes below 120 percent of the median family income for Clackamas County. A copy of a deed restriction or other legal mechanism approved by the Director shall be submitted.

3. Appeal Procedure. An appeal of an ELD shall follow the procedures in ORS 197.375. Where the City has not otherwise appointed a hearings officer (referee) for such appeals, and the City Attorney is a Contractor (not a City employee), the City Attorney shall serve as the referee for ELD appeals.

B. Middle Housing Land Division. A middle housing land division ("MHLD") is the creation of multiple lots or parcels from a single parent lot on which a middle housing type (duplex, triplex, quadplex, townhouse, cottage cluster) is developed or proposed, which results in an individual lot for each of the middle housing units. The MHLD process follows the procedures defined by ORS 197.360(1). The MHLD criteria and process is as follows:

1. Submittal. Applicants may not submit an application for a MHLD if permits for middle housing have been submitted to the Building Division and have not been issued. New middle housing

permits may not be submitted for sites with an active MHLD review until the final plat is recorded.

2. Approval Criteria. The applicant for a MHLD shall demonstrate that the application meets of the following criteria:
    a. Existing Compliance. The middle housing development complies with the Oregon Residential Specialty Code and applicable LDC middle housing regulations. To demonstrate compliance with this criterion, the applicant shall submit building permits demonstrating that existing or proposed structures comply with the Oregon Residential Specialty Code and LDC middle housing regulations.
    b. Separate Utility Connections. Separate utility service connections for public water, sewer, and stormwater will be provided for each dwelling unit.
    c. Easements. Easements will be provided as necessary for each dwelling unit per 16.63.060.C on the site for:
        i. Locating, accessing, replacing, and servicing all utilities;
        ii. Pedestrian access from each dwelling unit to a private or public road;
        iii. Any common use areas or shared building elements;
        iv. Any dedicated driveways or parking;
        v. Any dedicated common area.
    d. One Dwelling Unit per Lot. Exactly one dwelling unit will be located on each resulting lot or parcel (child lot), except for lots, parcels, or tracts used as common areas, on which no dwelling units will be permitted.
    e. Comply with Building Code. Buildings or structures on a child lot will comply with applicable Building Code provisions relating to new property lines.
    f. Notwithstanding the creation of new child lots, structures or building located on the newly created lots will comply with the Oregon Residential Specialty Code.
    g. Frontage improvements. Where a resulting child lot abuts a street that does not meet City standards, street frontage improvements will be constructed and, if necessary, additional right-of-way will be dedicated, pursuant LDC 16.63.060(D).
3. Preliminary Plat Submittal. In addition to the items listed in LDC 16.63.060 and 16.61.030.B.2, an application for a MHDL shall include the following:
    a. A description of the manner in which the proposed division complies with each of the provisions of subsection 2 of this section, including copies of building permits or permit applications and other evidence necessary to demonstrate:
        i. How buildings or structures on a resulting child lot will comply with applicable building codes provisions related to new property lines; and
        ii. Notwithstanding the creation of new lots, how structures or buildings located on the newly created child lots will comply with the Oregon Residential Specialty Code.
    b. In addition to the items listed in LDC 16.63.060, copies of a plat showing the following details:
        i. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion LDC 16.61.070.B.2.b.
        ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion LDC 16.63.060.C.
    c. Copies of all required easements in a form approved by the City Attorney.
4. Preliminary Plat Conditions of Approval.
    a. The preliminary plat for a MHLD shall:
        i. Prohibit further division of the resulting child lots.
        ii. Require that a notation appear on the final plat indicating:
            - The approval was given under ORS Chapter 92.

- The type of middle housing approved on the subject site and noting that this middle housing type shall not altered by the middle housing land division.
- Accessory dwelling units are not permitted on child lots resulting from a middle housing land division.

b. The City shall not attach conditions of approval that a child lot require driveways, vehicle access, parking, or minimum or maximum street frontage.

C. Preliminary Plat Procedures for Expedited and Middle Housing Land Division. Unless the applicant requests to use the procedure set forth in LDC 16.63.040, the City shall use the following procedure for an expedited land division (ELD), as described in ORS 197.360, or a middle housing land division (MHLD).

1. Completeness Review.
    a. If the application for an ELD or MHLD is incomplete, the City shall notify the applicant of the missing information within 21 days of receiving an application. The application shall be deemed complete on the date the applicant submits the requested information or refuses in writing to submit it.
    b. If the application was complete when first submitted or the applicant submits the requested additional information within 180 days of the date the application was first submitted, approval or denial of the application shall be based upon the standards and criteria that were applicable at the time the application was first submitted.
2. Notice of Application.
    a. On receipt of a complete application, written notice shall be provided to owners of property within 100 feet of the entire contiguous site for which the application is made and to any City Council-recognized neighborhood association(s) whose boundaries include the site. Notice shall also be provided to any agency responsible for providing public services or facilities to the subject site. The notification list shall be compiled from the most recent property tax assessment roll. For purposes of appeal to the referee under ORS 197.375, this requirement shall be deemed met when the local government can provide an affidavit or other certification that such notice was given.
    b. The notice shall include the following:
        i. The deadline for submitting written comments;
        ii. A statement of issues that may provide the basis for an appeal to the referee must be raised in writing prior to the expiration of the comment period; and
        iii. A statement that issues must be raised with sufficient specificity to enable the local government to respond to the issue.
        iv. The applicable criteria for the decision.
        v. The place, date, and time that comments are due.
        vi. A time and place where copies of all evidence submitted by the applicant will be available for review.
        vii. The street address or other easily understood geographical reference to the subject property.
        viii. The name and telephone number of a local government contact.
        ix. A brief summary of the local decision-making process for the land division decision being made.
3. There shall be a minimum 14-day period to allow for submission of written comments prior to the Planning Official's decision.
4. There shall be no public hearing on the application.
5. The Planning Official shall make a decision on the application within 63 days of receiving a completed application.

6. The Planning Official's decision shall be based on applicable elements of the Happy Valley Municipal Code and Comprehensive Plan. An approval may include conditions to ensure that the application meets applicable land use regulations.
7. Notice of the decision shall be provided to the applicant and to those who received notice under subsection 2 within 63 days of the date of a completed application. The notice of decision shall include:
    a. A summary statement explaining the determination; and
    b. An explanation of appeal rights under ORS 197.375
8. Failure to approve or deny application within specified time.
    a. After seven days' notice to the applicant, the City Council may, at a regularly scheduled public meeting, take action to extend the 63-day time period to a date certain for one or more applications for an expedited land division prior to the expiration of the 63-day period, based on a determination that an unexpected or extraordinary increase in applications makes action within 63 days impracticable. In no case shall an extension be to a date more than 120 days after the application was deemed complete. Upon approval of an extension, the provisions of ORS 197.360 to 197.380, including the mandamus remedy provided by subsection (a), shall remain applicable to the expedited land division, except that the extended period shall be substituted for the 63-day period wherever applicable.
    b. The decision to approve or deny an extension under subsection b of this section is not a land use decision or limited land use decision.
9. A decision may be appealed within 14 days of the mailing of the decision notice by the applicant or a person or organization who file written comments within the time period described in LDC 16.61.070.C.3. The appeal must include the appeal application and a $300 deposit for costs.
10. An appeal shall be based solely on one or more of the allegations:
    a. The decision violates the substantive provisions of the applicable land use regulations;
    b. The decision is unconstitutional;
    c. The application was not eligible for review under LDC 16.61.070(B) (Middle Housing Land Division) and should be reviewed as a land use decision or limited land use decision.
    d. The appellant's substantive rights were substantially prejudiced by a procedural error.
11. The City shall appoint a referee to decide the appeal decision and the appointed referee shall comply with ORS 197.375(3) through (6) when issuing a decision. The referee may not be a City employee or official.

D. Final Plat Requirements for Expedited and Middle Housing Land Divisions

1. Expedited Land Division (ELD) – Final Plan Review Criteria. Approval of a final plat for an ELD shall be consistent with the review criteria for Land Divisions and Property Line Adjustments (LDC 16.63.080).
2. Middle Housing Land Division (MHLD) – Final Plan Review Criteria. Approval of a final plat for a MHLD will be granted if the review body finds the applicant has met the following criteria:
    a. The final plat substantially conforms to the preliminary plat.
    b. Conditions of approval attached to the preliminary plat have been satisfied.
    c. All proposed improvements required to satisfy applicable standards of the LDC have been constructed.
3. Final Plat Submittal. An application for an ELD or MHLD final plat shall include the items listed in LDC 16.63.080.

16.61.080 Neighborhood meetings.

Applicants filing Type II or Type III applications are encouraged to meet with adjacent property owners and neighborhood representatives prior to submitting their application to the City in order to solicit input and exchange information about the proposed development. Applicants are encouraged to hold a neighborhood meeting with a recognized neighborhood or community organization. If no organization exists, then the applicant may hold a meeting with adjacent property owners who will receive public notice (a minimum three hundred (300) foot radius from subject property).

16.61.090 Traffic impact studies.

The purpose of this section of the code is to assist in determining which road authorities participate in land use decisions, and to implement Section 660-012-0045(2)(e) of the State Transportation Planning Rule that requires the City to adopt a process to apply conditions to development proposals in order to minimize impacts and protect transportation facilities. This chapter establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a traffic impact study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a traffic impact study; and who is qualified to prepare the study.

A. When a Traffic Impact Study is Required. The City or other road authority with jurisdiction may require a traffic impact study (TIS) as part of an application for development, a change in use, or a change in access. A TIS shall be required when a land use application involves one or more of the following actions:

1. A change in zoning or a plan amendment designation;

2. Any proposed development or land use action that a road authority states may have operational or safety concerns along its facility(ies);

3. An increase in site traffic volume generation. Increase in site traffic volume generation shall be subject to the City's transportation impact study guidelines;

4. An increase in peak hour volume of a particular movement to and from the State highway by twenty (20) percent or more;

5. An increase in use of adjacent streets by vehicles exceeding the twenty thousand (20,000) pound gross vehicle weights by ten (10) vehicles or more per day;

6. The location of the access driveway does not meet minimum sight distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; and,

7. A change in internal traffic patterns that may cause safety problems, such as back up onto a street or greater potential for traffic accidents.

B. Traffic Impact Study Preparation. A traffic impact study shall be prepared by a professional engineer in accordance with the requirements of the road authority. If the road authority is the Oregon Department of Transportation (ODOT), consult ODOT's regional development review planner and OAR 734-051-180.

Chapter 16.62 LAND USE REVIEW AND DESIGN REVIEW

16.62.010 Purpose.

The purpose of this chapter is to:

A. Provide rules, regulations and standards for efficient and effective administration of land use and site development review;

B. Implement the development patterns described in the City's Land Development Code and Comprehensive Plan;

C. Promote the public health, safety and general welfare;

D. Provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards;

E. Encourage the conservation of energy resources; and

F. Encourage efficient use of land resources, full utilization of urban services, mixed uses, transportation options, and detailed, human-scaled design.

16.62.020 Review types and applicability.

A. Review Types.

1. Type I land use review/minor design review is conducted by the Planning Official or designee without a public hearing. See Chapter 16.61 for review procedure. It applies to changes in land use and developments that do not require a conditional use permit or Type II/Type III minor/major site design review approval. Type I land use review/minor design review is designed to ensure compliance with clear and objective land use and development standards of the land use district, such as lot area, building setbacks and orientation, lot coverage, maximum building height, design standards and other objective provisions of Article 16.2. The Type I land use review/minor design review is accommodated by the Planning Official or designee's review of building permit and site plan materials.

2. As specified in Table 16.62.020-1, minor design review is conducted by either the Planning Official or designee as either a Type I or a Type II decision or as a Type III decision by the Hearings Officer in a public hearing (Type III-HO). Architectural review comments are provided by a contracted, licensed, professional architect. See Chapter 16.61 for review procedure. A Type III-HO review in particular is intended for moderately sized, more complex developments that require more detailed review of the proposed design and the exercise of both objective and subjective decision making in the design review process. When a land use application is received, the Planning Official shall determine the appropriate design review process.

3. Major design review is conducted by the Design Review Board (Type III-DRB) at a public hearing. Major design review is intended for larger, significantly more complex developments that require more detailed review of the proposed design and the exercise of both objective and subjective decision making in the design review process as specified in Table 16.62.020-1.

B. Applicability. Type I land use review/minor design review or Type II minor/major design review is required for all new development and modification to an existing development as described in Table 16.62.020-1 below. Land uses and developments that exceed the thresholds for Type I land use review/minor design review require either Type II minor or Type III minor/major

design review. The Planning Official shall determine the required review procedure at the time the application is received.

Table 16.62.020-1 Land Use and Minor and Major Design Review

Review by the Planning Official or designee is demarked with "PO"; review by the Hearings Officer with "HO"; and review by the Design Review Board with "DRB."

Proposed Activity	Type I Land Use Review/ Minor Design Review	Type II Minor Design Review	Type III Minor/Major Design Review
Change in Occupancy or Use			
Creation of single-family attached, duplex, triplex, quadplex, or cottage cluster housing through internal conversion of, or addition to, existing dwellings[1]	PO		
Change in occupancy from one type of land use to a similar land use	PO		
A change in use of a structure from residential to commercial or industrial		PO	HO
New Construction			
Single-family detached dwelling (including manufactured home on its own lot), single-family attached dwellings (townhomes), duplexes, triplexes, quadplexes, cottage clusters	PO		
Multifamily residential developments made up of a total of 30 attached dwelling units or less		PO	
Residential developments made up of a total of 31 to 60 attached dwelling units			HO
Residential developments made up of 61 attached dwelling units or more			DRB
Nonresidential development up to 5,000 square feet (structures only) in size		PO	
Nonresidential development between 5,001 and 14,999 square feet (structures only) in size			HO
Nonresidential development greater than 15,000 square feet (structures only) in size			DRB
Nonresidential and Multifamily Additions and Remodeling			

Proposed Activity	Type I Land Use Review/ Minor Design Review	Type II Minor Design Review	Type III Minor/Major Design Review
Nonresidential or multifamily building additions or substantial exterior remodeling up to 20 percent of existing gross floor area or building height, except that the following shall require minor design review: Enlarging or extending a nonconforming use	PO		
Increases the building footprint or height Modifies more than 25 percent of the façade or, if the property abuts property zoned for residential use, modifies any portion of the façade visible from the residentially zoned property			
Expansion or substantial exterior remodeling of existing nonresidential or multifamily development greater than 20 percent of the building's gross floor area or existing building height		PO	HO
A tenant improvement including re-painting of more than 50 percent of the total façade	PO		
Other Activities			
Minor modifications to development approvals as defined by Chapter 16.66		PO	
Any proposed development that has a valid conditional use permit. Major modifications to a development with a conditional use permit shall require review and approval in accordance with Chapter 16.64, Conditional Use Permits	PO		
Temporary uses requiring a permit under Chapter 16.69	PO		
Mobile food unit sites (see Section 16.69.030 for thresholds)	PO	PO	HO/DRB
Accessory structures and accessory parking	PO		
Development and land uses that are part of a previously approved design review or conditional use permit application	PO		
Public improvements required by a condition of approval (e.g., transportation facilities and improvements, parks, trails, and similar improvements, as determined by the Planning Official)	PO		
Dredging, filling, grading, paving, construction of retaining walls over 12 feet in height, excavation or drilling operations		PO	

Proposed Activity	Type I Land Use Review/ Minor Design Review	Type II Minor Design Review	Type III Minor/Major Design Review
located within the City that significantly impact an existing or potential design review application as determined by the Planning Official			
Dredging, filling, grading, paving, construction of retaining walls over 4 feet in height, excavation or drilling operations located within the City that minimally impact an existing or potential design review application as determined by the Planning Official	PO		

Notes:

[1] The following applies to conversion of any housing type to single-family attached, duplex, triplex, quadplex or cottage cluster housing:

- The converted housing type is a permitted use in the underlying zone.
- With the exception of minimum parking requirements, the conversion does not create a non-conforming use or increase non-conformance with applicable development or design standards.
- With the exception of conversions to cottage clusters, middle housing conversions are exempt from additional residential design standards found in Article 16.4.
- Separate utility connections are provided or available for the additional unit(s), either on the side or front of the house.

C. Exemptions.

1. Regular maintenance, repair and replacement of materials (e.g., roof, siding, awnings, etc.), parking resurfacing and similar maintenance and repair shall be exempt from review.

2. A building expansion that is solely designed and constructed to:

a. Provide accessibility for the disabled;

b. Provide for energy conservation (e.g., addition of an entry vestibule);

c. Provide for screened recycling or trash storage; or

d. Relocate or screen visible exterior mechanical equipment so that such equipment is no longer visible.

16.62.030 Design review.

A. Design Review Board—Appointment, Term Limits and Membership. The City Council shall appoint a Design Review Board to serve as expert professional advisors to aid in the review of certain development applications as provided in Chapter 2.16 (Volunteer Committees) of the Happy Valley Municipal Code.

B. Time Limits. Design review approval expires after two years unless substantial construction on the site has begun, as determined by the City. The Planning Official or designee may extend an approval for an additional period not to exceed one year based on the following:

1. No changes are made to the original site design review plan;

2. The applicant demonstrates the ability and intent to initiate construction on the site within the one-year extension period; and

3. The applicant demonstrates that failure to obtain building permits and substantially begin construction within the two-year approval period was beyond the applicant's control. An application for an extension shall be filed with the applicable fee prior to the expiration of the approval.

C. Design Review Application Requirements. In order to be deemed complete, a design review application shall contain all of the following plans and elements, unless specifically waived by the Planning Official or designee:

1. Submittal requirements for minor and major design review:

   a. Existing conditions plan;

   b. Site plan;

   c. Landscape plan;

   d. Grading plan;

   e. Color architectural elevations;

   f. Site photographs;

   g. Building materials exhibit;

   h. Lighting plan;

   i. Signage plan (if available);

   j. Refuse/recycling facility elevations;

   k. Narrative;

   l. Additional requirements as determined by the Planning Official.

D. Design Review Plans—Information Requirements. Design review plans shall include the following:

1. Electronic copies of all documents formatted to be able to be printed at "full size" (twenty-four (24) by thirty-six (36) inches) and "one-half size" (eleven (11) by seventeen (17) inches) and maintain a standard engineering or architectural scale at printed size. Three copies of full-size plans printed to a standard engineering or architectural scale. Larger-sized copies are allowed at the discretion of the City;

2. Twenty (20) copies of one-half size plans printed to a standard engineering or architectural scale for utilization in soliciting comments by City staff and relevant service providers, as well as the number of plan sets corresponding to the number of mailed notice recipients within a three hundred (300) foot radius of the greater subject site;

3. Drawings shall be at a scale sufficiently large enough to enable all features of the design to be clearly discerned;

4. All plans should have a north arrow, title, scale and date of plan.

E. Existing Conditions Plan. This element of design review shall indicate the following site characteristics:

1. Assessor's tax map and tax lot number;

2. Boundary dimensions and area of the site;

3. Location of all existing structures, including their distances from the property line;

4. The location and names of all existing streets within or on the boundary of the development;

5. Location and species of trees greater than six inches in diameter when measured four and one-half feet above the natural grade and an indication of which trees are to be removed;

6. On sites that contain slopes greater than fifteen (15) percent, potential geologic hazards or unique natural features including environmental zones or overlays that may affect the proposed development, along with contours mapped at five-foot intervals;

7. Natural drainageways and other significant natural features such as wetlands, riparian corridors, and protected water features;

8. All buildings, roads, retaining walls, curb cuts, and other manmade features;

9. Topographical survey to include structures and natural features (wetlands, riparian corridors and their buffers) on adjoining property within two hundred (200) feet of the site; and

10. A survey of the subject property by a licensed land surveyor clearly delineating property boundaries shall be provided and shall be accurate as to current state of property.

F. Site Plan. This element of the design review plan shall indicate the following:

1. Area of the site covered by the structures described in this subsection and their percentage of the site;

2. All external dimensions of proposed buildings and structures;

3. Parking and circulation areas including their dimensions;

4. Service areas for such uses as the loading and delivery of goods;

5. Locations, purpose, and dimensions of easements;

6. Pedestrian circulation;

7. The location of mechanical equipment, garbage disposal areas, utility appurtenance, and similar structures;

8. Exterior lighting, including the type and intensity, are to be illustrated;

9. Provisions for handicapped persons;

10. Other site elements, which will assist in the evaluation of site development;

11. The location and names of all existing streets within or on the boundary.

a. A block on the plans stating the following:

i. For commercial and nonresidential development:

(A) The square footage contained in the area proposed to be developed;

(B) The percentage of the lot covered by:

(1) Structures,

(2) Parking areas,

(3) Recreation areas,

(4) Landscaping,

(5) Other impervious surface areas needed to measure lot coverage.

ii. For residential development:

(A) The total square footage in the development;

(B) The number of dwelling units in the development (include the units by the number of bedrooms in each unit, e.g., ten (10) one-bed-room, twenty-five (25) two-bedrooms, etc.);

(C) The percentage of the lot covered by:

(1) Structures,

(2) Parking areas,

(3) Recreation areas,

(4) Landscaping,

(5) Other impervious surface areas needed to measure lot coverage.

G. Landscape Plan. This element of the design review plan should indicate the following:

1. Landscape plans shall be prepared by a licensed landscape architect;

2. Locations of buildings and structures, including pathways, driveways and parking areas;

3. Location of areas to be landscaped;

4. Private and shared outdoor recreation areas;

5. List of plant materials, including genus, species, common name, sizing, quantity and spacing;

6. Pertinent landscape features including walls, retaining walls, berms, fences and fountains;

7. A note on the plan indicating that an irrigation system will be installed to maintain the landscape materials and the method of irrigation;

8. The size, species, and locations of plant materials to be retained or placed on the site;

9. The locations and design details of walkways, plazas, courtyards, and similar seating areas including related street furniture and permanent outdoor equipment including sculpture;

10. The location and design details of proposed fencing, retaining walls, and trash collection areas; and

11. A proposed plan for the maintenance of the landscape plan including the replacement of plants as may be needed to preserve the visual integrity of the site.

H. Grading Plan. This element of design review shall indicate the following: grading and drainage plans including spot elevations and contours at close enough intervals to easily convey the slope of the site.

I. Architectural Elevations. This element of the design review plan shall indicate the following: color exterior elevations, showing finish materials, windows, doors, light fixtures, stairways, balconies, decks, and architectural details. These elevations shall be provided for every exterior wall

surface including those that are completely or partially concealed from view by overlapping portions of the structure. Existing and finished grades at the center of all walls shall be shown with elevation of floors indicated and a dimension showing compliance with height limitations.

J. Site Photographs. This element of the design review plan shall indicate the following:

1. Photographs depicting the site and its relationship to adjoining sites;

2. Current aerial photos accurately depicting existing conditions.

K. Building Materials Exhibit. This element of the design review plan shall include a written description and photographic representation of the following: the color and texture of finish materials and color ranges of siding and other façade treatment, roofing, windows and trim.

L. Lighting Plan. This element of the design review plan shall indicate the following:

1. Illustrate the type of exterior wall light fixtures including the lamp types with manufacturer's specification sheet and the levels of illumination that they provide;

2. Location and type of street and parking lot light fixtures including the lamp types along with manufacturers specification sheet and the levels of illumination that they provide;

3. A comprehensive graphic plan showing the location, size, material, and method of illumination of all monument signs. Individual signs shall go through the sign permit process outlined in Chapter 16.45 of this title; and

4. The location, type, and intensity and manufacturer's specification sheet of light proposed to illuminate outdoor areas.

M. Additional Requirements.

1. The City may require the following in addition to the materials cited in Chapter 16.66. This determination will be made as part of the pre-application conference process.

2. Additional information that may be required includes, but is not limited to:

a. Traffic impact analysis, completed pursuant to Section 16.61.090;

b. Architectural models;

c. Natural resource assessment, consistent with the requirements of Chapter 16.34;

3. Other information as requested by the Planning Official or designee.

N. Narrative. A design review narrative shall be provided that addresses each of the applicable standards and criteria in Section 16.62.030(O) and the following Sections 16.50.080, Construction plan approval—Bonding and assurances and 16.62.030, Design Review.

O. General Design Review Criteria.

1. Applicability. The following criteria apply to design review projects except for single-family detached, single-family attached (townhome), duplex, triplex, quadplex, and cottage cluster residential development.

2. Relationship to Other Standards. The criteria of this section apply in addition to other standards of this title. Where requirements conflict with standards in other sections of this title, the standards of this section shall govern; except that Happy Valley Style Design Review standards in Chapter 16.46 shall supersede, and where applicable, the multifamily standards in Section 16.44.010 shall supersede.

3. Criteria.

a. The proposed development preserves significant natural features such as natural drainageways, wetlands, and trees outside the construction area as defined in Section 16.42.050, to the maximum extent feasible, and conforms to the provisions of Sections 16.35.050 and 16.35.020.

b. Phased projects shall be designed to the greatest degree possible so that each phase, in and of itself, is complete in its functional, traffic, parking, visual, drainage and landscaping aspects.

c. Where appropriate, the design includes a parking and circulation system that includes a pedestrian and vehicular orientation including separate service area(s) for delivery of goods.

d. The location, size, shape, height and spatial and visual arrangement of the uses and structures are compatible, with the consideration given to increased setbacks, building heights, shared parking, common driveways and other similar considerations.

e. That there is desirable, efficient and functional interrelationship among buildings, building entrances, existing and proposed transit stops, transit facilities and routes, parking, loading area, circulation, open spaces, landscaping and related activities and uses on the site.

f. Utilize landscaping in parking areas to direct and control vehicular movement patterns, screen headlights from adjacent properties and streets, and lessen the visual dominance of pavement coverage.

g. The proposed development meets all other applicable provisions of this Land Development Code.

h. The proposed development can be adequately served by Level 1 services.

i. Provide safe pathways for pedestrians to move from parking areas to building entrances.

j. All building exterior improvements approved through the design review process shall be continually maintained including necessary painting and repair so as to remain substantially similar to the original approval through the design review process.

k. A landscape plan shall be approved consistent with design standards in Chapter 16.42 in a manner that will assure the maintenance and visual integrity of the site.

l. All plans shall comply with the purpose statement in Section 16.62.010.

16.62.040 Development in accordance with permit approval—Modifications—Permit expiration.

Development shall not commence until the applicant has received all of the appropriate land use and development approvals, including construction plan approval and any applicable bonding or posting of securities. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements in accordance with Section 16.50.080 Construction Plan Approval, Bonding and Assurances. Land Use Review and Design Review approval is subject to all of the following standards and limitations.

A. Modifications to Approved Plans and Developments. Minor modification of an approved plan or existing development, as defined in Chapter 16.66, shall be processed as a Type I procedure. A major modification, as defined in Chapter 16.66, shall be processed as a Type III-HO or Type III-DRB procedure and requires design review by the review body that issued the original decision.

B. Approval Period. A decision to approve a minor or major modification expires two years from the date of approval if:

1. A public improvement plan or building permit application for the project has not been submitted within two years of approval; or

2. Construction on the site is in violation of the approved plan.

C. Phased Development. Phasing of development may be approved with the design review application, subject to the following standards and procedures:

1. A phasing plan shall be submitted with a design review and/or subdivision application.

2. A decision to approve the application shall include a phasing schedule for developing the site in phases, but in no case shall the total time period for all phases be greater than seven years from the date of approval without reapplying for design review.

3. An application for phased development must satisfy all of the following criteria:

a. The public facilities required to serve each phase are constructed in conjunction with or prior to the phase;

b. The development and occupancy of any phase that is dependent on the use of temporary public facilities requires approval by the City Engineer, Building Official and any applicable service provider. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements in accordance with Section 16.50.080. A temporary public facility is any facility not constructed to the applicable City or district standard as determined by the City Engineer;

c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and

d. An application for phasing may be approved after design review or subdivision approval as a modification to the approved plan, in accordance with the procedures for a minor modification (Chapter 16.66). As determined by the Planning Official, if significant impacts will occur due to the proposed phasing, the application may be processed as a major modification.

Chapter 16.63 LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS

16.63.010 Purpose.

The purpose of this chapter is to:

A. Provide rules, regulations and standards governing the approval of subdivisions, partitions and lot line adjustments, as defined below and in Chapter 16.12:

1. Subdivisions are the creation of four or more lots from one parent lot, parcel or tract, within one calendar year,

2. Partitions are the creation of three or fewer lots within one calendar year,

3. Lot line adjustments are modifications to lot lines or parcel boundaries that do not result in the creation of new lots (includes consolidation of lots);

B. Carry out the City's development pattern, as envisioned by the City's Comprehensive Plan; this title and adopted master plans;

C. Encourage efficient use of land resources, full utilization of urban services, and transportation options;

D. Promote the public health, safety and general welfare through orderly and efficient urbanization;

E. Provide adequate light and air, prevent overcrowding of land, and provide for adequate transportation, water supply, sewage, fire protection, pollution control, surface water management, and protection against natural hazards; and

F. Encourage the conservation of energy resources.

16.63.020 General requirements.

A. Subdivision and Partition Approval Through Two-step Process. Applications for subdivision or partition approval shall be processed by means of a preliminary plat evaluation and a final plat evaluation, according to the following two steps:

1. The preliminary plat must be approved before the final plat can be submitted for approval consideration; and

2. The final plat must include all conditions of approval of the preliminary plat.

B. The following conditions, regulations and restrictions shall apply to all methods of development:

1. No person shall dispose of, transfer, sell or agree, offer or negotiate to sell any lot in any subdivision until the final plat of the subdivision has been acknowledged and recorded with the Clackamas County Clerk's office.

2. No person shall dispose of, transfer, sell or agree, offer or negotiate to sell any lot in any subdivision by reference to or exhibition or other use of a plat of such subdivision before the final plat for such subdivision has been so recorded.

3. A person may offer or negotiate to sell any parcel in a partition prior to approval of the tentative plan for the partition, but no person may dispose of, transfer, sell, or agree to sell any parcel in a partition prior to such approval.

4. All planned unit developments (PUDs), subdivisions, master plans and partitions which are developed pursuant to this Development Code must also be in conformance with the Happy Valley Comprehensive Plan and this title.

5. Building permits that are requested for lots which are not in conformance to this title shall not be issued unless the lot is a pre-existing lot of record prior to the enactment of this title.

6. All subdivisions, master plans and partitions using subsurface sewerage disposal methods shall be developed pursuant to the appropriate State, County and City regulations.

7. Any parcel or tract to be developed using the facilities of a community sewerage agency shall be developed pursuant to the appropriate City and agency regulations.

C. Compliance With ORS Chapter 92. All subdivision and partition proposals shall conform to state regulations in Oregon Revised Statute (ORS) Chapter 92, Subdivisions and Partitions.

D. Future Re-division Plan. When subdividing or partitioning tracts into large lots (i.e., greater than two times or two hundred (200) percent the minimum lot size allowed by the underlying land use district), the City shall require that the lots be of such size, shape, and orientation as to facilitate future re-division in accordance with the requirements of the land use district and this Code. A re-division plan shall be submitted for large lots identifying:

1. Potential future lot division(s), consistent with the density and lot size standards of Article 16.2;

2. Potential street right-of-way alignments to serve future development of the property and connect to adjacent properties, including existing or planned rights-of-way;

3. A disclaimer that the plan is a conceptual plan intended to show potential future development. It shall not be binding on the City or property owners, except as may be required through conditions of land division approval. For example, dedication and improvement of rights-of-way within the future plan area may be required to provide needed secondary access and circulation.

E. Lot Size Averaging. Single-family residential lot size may be averaged to allow lots less than the minimum lot size in residential districts, as provided by Section 16.63.030, Flexible Lot Size, or through approval of a master planned development under Chapter 16.65.

F. Density Calculations. Development may be clustered on-site in order to avoid constrained or partially constrained land pursuant to the PUD process. The minimum and maximum number of dwelling units permitted on a site is limited by the number of units allowed by the applicable zoning district(s) and the amount of buildable land. The density of a site is determined by adding the number of units allowed on constrained and unconstrained portions of the site. Constrained land includes any portion of the site with one or more of the following characteristics:

1. Public facilities in a tract, including stormwater treatment;

2. Public and private right-of-way;

3. Land constrained by the Steep Slopes Development Overlay Zone in Chapter 16.32;

4. Land constrained by the Natural Resources Overlay Zone in Chapter 16.34;

5. Upon approval of the Planning Official, any lands where development of structures requiring a building permit is prohibited due to an easement and is similar in nature to items a—d.

No density is allowed within constrained land except for the reduced rate within the Steep Slopes Development Overlay Zone and the Natural Resources Overlay Zone per LDC Chapter 16.32.090 and/or 16.34.050. Land constrained by both overlays shall use the calculation resulting in the lowest number of units. There is no minimum density requirement for constrained or partially constrained lands. The density within each overlay may be transferred to portions of the site outside of the Natural Resources Overlay Zone or Steep Slopes Development Overlay Zone through the PUD process. The density transferred to the unconstrained portions of the site shall not exceed 175% of

the density permitted by the underlying zoning district. Resulting density calculations shall be rounded down to the nearest whole dwelling unit.

In the case of a partition, where the City is requiring the dedication of public right-of-way along an existing roadway, the dedicated public right-of-way shall not be included in the calculation for the purposes of calculating density or satisfying minimum lot size.

G. Temporary Sales Office. A temporary sales office in conjunction with a subdivision may be approved as set forth in Section 16.69.010, Temporary use permits.

H. Minimize Flood Damage. All subdivisions and partitions shall be designed based on the need to minimize the risk of flood damage. No new building lots shall be created entirely within a floodway. All new lots shall be buildable without requiring development within the floodway and, where possible, allow building outside of the flood fringe. Development in a 100-year floodplain shall comply with the National Flood Insurance Program and State Building Code requirements, including elevating structures above the base flood elevation. The applicant shall be responsible for obtaining floodplain development permit from the NFIP and local jurisdiction.

I. Determination of Base Flood Elevation. Where a development site consists of five or more acres or fifty (50) or more lots, and is located in or near areas prone to inundation for which the base flood elevation has not been mapped, the applicant shall have the base flood elevation it shall be prepared by a qualified professional as part of the land division application.

J. Need for Adequate Utilities. All lots created through land division shall have adequate public utilities and facilities such as sewer, gas, electrical, and water systems. These systems shall be located and constructed to prevent or minimize flood damage, and to avoid impairment of the system and contamination from them during flooding.

K. Need for Adequate Drainage. All subdivision and partition proposals shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality. Water quality or quantity control improvements may be required.

L. Floodplain, Park, and Open Space Dedications. Where land filling and/or development is allowed within or adjacent to regulatory floodplain and the Comprehensive Plan designates the subject floodplain for park, open space, or trail use, the City may require the dedication of sufficient open land area for a greenway and/or trail adjoining or within the floodplain for transportation, storm drainage/water quality, or park purposes in the public interest. When practicable, this area shall include portions at a suitable elevation for the construction of a multi-use pathway in accordance with the City's adopted trails plan or pedestrian and bikeway plans, as applicable. The City shall evaluate individual development proposals and determine whether the dedication of land is justified based on the development's impact to the park and/or trail system, or stormwater management requirements, consistent with Sections 16.50.030 and 16.50.060, and assist in obtaining any floodplain permit that may be required.

M. Lands Subject to Hazardous Conditions. Any land area within the City which has been determined to be unbuildable pursuant to the City's Comprehensive Plan and Development Code shall be developed for building purposes only when adequate methods for mitigating the hazards are submitted, reviewed and approved by all appropriate agencies. The appropriate agencies, including the City Engineer, shall use as their review and approval criteria the pertinent sections of the applicable codes, ordinances, laws, statutes, administrative policies and rules, and other applicable

documents. Land areas determined not to be buildable may be utilized to help complete or fulfill a requirement for the provision of open space, if a maintenance agreement is provided by the property owner and approved by the City Engineer.

N. Variation of Design. No two directly adjacent buildings in a land division of more than fifty lots may have the same front or street-facing facade. This standard is met when street-facing facades differ from one another by a minimum of three of the elements listed in i-vii below. Mirrored/flipped floorplans are not allowed.

i. Different exterior cladding materials, a different combination of materials, or significantly different dimensions, spacing, or arrangement of the same materials.

ii. Different offsets, recesses, or projections; or the building elevations break in different places.

iii. Different roof forms (e.g., gable versus gambrel or hip), different orientation (e.g., front-facing versus side-facing gable), different roof projections (e.g., with and without dormer or shed, or different type of dormer or shed), or different roof pitch by more than 2 feet of vertical rise to 12 feet of horizontal run.

iv. Different configuration or detailing of the front porch or covered entrance.

v. Different placement, shape, or orientation of windows or different placement of doors.

vi. Different number of building stories.

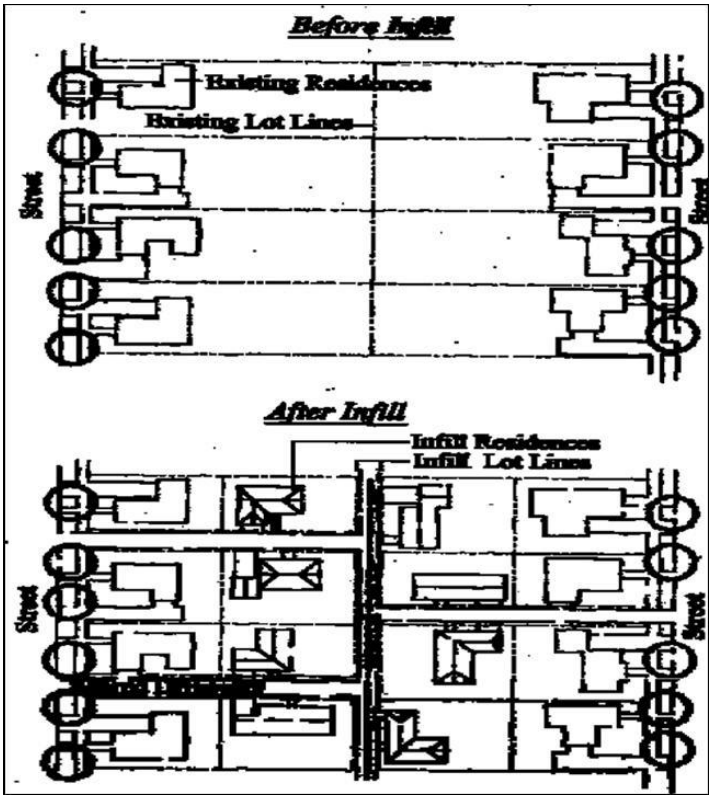
vii. Different garage orientation (e.g., front, side, rear).

16.63.030 Flexible lot size—Flag lots—Lots accessed by mid-block lanes.

A. Flexible Lot Size. To allow creativity and flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees and other natural and built features, the approval body may grant a ten (10) percent modification to the lot area and/or lot dimension (width/depth) standards in Chapter 16.22, provided that: the overall density of the subdivision does not exceed the allowable density of the district; the minimum lot size for single-family detached lots is not less than five thousand (5,000) square feet within eighty (80) percent of the net developable area of the subject development (and within the twenty (20) percent remainder area, lot sizes may decrease by a maximum of ten (10) percent); and the approval body finds that granting the modification allows for a greater variety of housing types or it improves development compatibility with natural features or adjacent land uses. In addition, the approval body may require that standard size lots be placed at the perimeter of the development where the abutting lots are standard size or larger; except that this provision shall not apply where the abutting lots are larger than twenty thousand (20,000) square feet.

B. Mid-block Lanes. Lots may be developed without frontage onto a public street when lot access is provided by mid-block lanes, as shown below. Mid-block lanes or shared driveways, as illustrated in Figure 16.63.030-1, may be required when practicable to provide connectivity between infill developments. Mid-block lanes with access easements for adjoining properties may be allowed as an alternative to requiring through streets where block lengths do not necessitate a through street. The lanes shall meet the standards for alleys, pursuant to Chapter 16.41, Section 16.50.030, and the specific standards in the Happy Valley Transportation Plan, and the standards under subsections C through F.

Figure 16.63.030-1 Mid-block Infill



C. Flag Lots. Flag lots may be created only when a through street or mid-block lanes cannot be extended to serve abutting uses or future development. A flag lot driveway ("flag pole") may serve no more than two dwelling units, including accessory dwellings and dwellings on individual lots, unless Uniform Fire Code (UFC) standards are met for more units. When UFC standards are met, the maximum number of dwellings shall be four. A drive serving more than one lot shall have a reciprocal access and maintenance easement recorded for all lots. No fence, structure or other obstacle shall be placed within the drive area. The Fire Marshal may require an emergency turnaround. Fire sprinklers may also be required for buildings that cannot be fully served by fire hydrants (i.e., due to distance from hydrant or insufficient fire flow). The required minimum lot area is the same as that required by the development district in which the lot is located. When calculating lot area, only the flag portion of the lot is counted, not the flag pole.

D. Driveway and Lane Width. The minimum paved width of all shared drives and lanes shall be twelve (12) feet within a twenty (20) foot easement, and may serve up to two dwelling units, or as required by the Uniform Fire Code.

E. Easement and Improvement of Drive Lane. The developer or property owner shall record a twenty (20) foot easement benefiting all properties that are to receive vehicle access. All drive lanes shall be improved with an all weather surface approved by the City. Recording of easements or separate tracts, as applicable, shall be so indicated on the face of the subdivision or partition plat.

F. Maximum Drive Lane Length. The maximum drive lane length is subject to requirements of Clackamas Fire District No. 1.

G. Future Street Plans. Building placement and alignment of shared drives shall be designed so that future street connections can be made as surrounding properties develop (i.e., as shown in the Figure 16.63.030-1).

16.63.040 Preliminary plat approval process.

A. Review of Preliminary Plat. Review of a preliminary plat that creates two or three parcels (partition) or four to nine lots (subdivision) shall be processed using a Type II procedure under Section 16.61.030. A preliminary plat that creates ten (10) or more lots (subdivision) shall be processed using a Type III procedure under Section 16.61.040. All preliminary plats shall be reviewed using the approval criteria described in Section 16.63.060. A preliminary subdivision application may be reviewed concurrently with an application for a master planned development under Chapter 16.65.

B. Review of Final Plat. Review of a final plat for a subdivision or partition shall be processed using the approval criteria in Section 16.63.080 and do not require a Land Use Review pursuant to ORS 197.015.

C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of two years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within the two-year period.

D. Modifications and Extensions. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 16.66, Modifications. The Planning Official shall, upon written request by the applicant and payment of the required fee, grant three consecutive written extensions of the approval period not to exceed one year each; provided that the applicant demonstrates that:

1. Any changes to the preliminary plat follow the procedures in Chapter 16.66;

2. The applicant has submitted written intent to file a final plat within the one-year extension period;

3. An extension of time will not delay or prevent the extension of infrastructure or easements necessary for abutting or connected developments, and will not delay or prevent the lawful development of abutting properties; and

4. The extension request is made prior to the expiration of the original approved plan.

E. Phased Development.

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be more than seven years without reapplying for preliminary plat approval.

2. The criteria for approving a phased land division proposal are:

a. Public facilities shall be constructed in conjunction with or prior to each phase;

b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require approval by the City Engineer, Building Official and any applicable service provider. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public

improvements, in accordance with Section 16.50.080. A temporary public facility is any facility not constructed to the applicable City or district standard;

c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and

d. The proposed time schedule for phased development approval shall be reviewed concurrently with the preliminary plat application, and the decision may be appealed in the same manner as the preliminary plat.

16.63.050 Preliminary plat submission requirements.

A. General Submission Requirements.

1. Partitions.

a. Document Requirements. For all partitions (three or fewer parcels), the application shall contain all of the information required for a Type II procedure under Section 16.61.030. In addition, electronic copies of all documents formatted to be able to be printed at "full size" (twenty-four (24) by thirty-six (36) inches) and "one-half size" (eleven (11) by seventeen (17) inches) and maintain a standard engineering scale at printed size. Three copies of full-size plans and twenty (20) copies of one-half size plans printed to a standard engineering scale for utilization in soliciting comments by City staff and relevant service providers, as well as the number of plan sets corresponding to the number of mailed notice recipients within a three hundred (300) foot radius of the greater subject site.

b. Neighborhood Circulation Plan. All partition proposals shall include neighborhood circulation plans that conceptualize future street plans and lot patterns to undeveloped parcels within five hundred (500) feet of the subject site. Circulation plans shall address future vehicular/bicycle/pedestrian transportation systems including bike lanes, sidewalks, bicycle/pedestrian paths, and destination points. A circulation plan is conceptual in that its adoption does not establish a precise alignment. An applicant for a partition is required to submit a circulation plan unless the applicant demonstrates to the Planning Official (or designee) one of the following:

i. An existing street or proposed new street need not continue beyond the land to be divided in order to complete or extend an appropriate street system or to provide access to adjacent parcels within five hundred (500) feet of the proposed development; or

ii. The proposed street layout is consistent with a street pattern adopted as part of the City's transportation system plan, or a previously adopted circulation plan.

2. Subdivisions—Document Requirements. For all subdivisions (four or more lots), the application shall contain all of the information required for a Type II procedure under Section 16.61.030. In addition, electronic copies of all documents formatted to be able to be printed at "full size" (twenty-four (24) by thirty-six (36) inches) and "one-half size" (eleven (11) by seventeen (17) inches) and maintain a standard engineering scale at printed size. Three copies of full-size plans and twenty (20) copies of one-half size plans printed to a standard

engineering scale for utilization in soliciting comments by City staff and relevant service providers, as well as the number of plan sets corresponding to the number of mailed notice recipients within a three hundred (300) foot radius of the greater subject site. The total information packet shall include the information in subsections a through h, below:

a. Public Facilities and Services Impact Study. The impact study shall quantify and assess the effect of the development on public facilities and services. The City shall advise as to the scope of the study during the required pre-application conference (Section 16.61.060(C)). The study shall address, at a minimum, the transportation system, including pedestrian ways and bikeways, the drainage system, the parks system, the water system, and the sewer system. For each public facility system and type of impact, the study shall propose improvements necessary to meet City standards and to minimize the impact of the development on the public at large, public facilities systems, and affected private property users and shall include a discussion of the system's capacity to serve the additional development, and of the need for annexation into any service district;

b. Traffic Impact Study. Traffic impact studies shall conform to the standards and procedures in Section 16.61.090.

c. Stormwater and Drainage Plans. Hydrologic consideration shall include the effect upon the watershed in which the project is located, the effect upon the immediate area's stormwater drainage pattern of flow, the impact of the proposed development upon downstream area, and the effect upon the groundwater supply.

d. Geotechnical Analysis. Geotechnical considerations shall include the erosion potential, stability, bearing qualities of the soil, and geologic formations; soil permeability and infiltration rates; and the soil quality for the proposed use.

e. Wetland and Riparian Corridor Analysis. Vegetation and wildlife considerations shall include: wildlife habitat, wetland areas, rare or endangered animal or plant species, unique vegetation communities, areas subject to low revegetation, trees over six inches in diameter at four feet height, other significant vegetation, and areas of educational potential. The impact of the proposed development on the above considerations both on the site and on adjacent properties shall be assessed, and proposed measures for mitigating any adverse impacts shall be described.

f. Neighborhood Circulation Plan. All subdivision and PUD proposals shall include neighborhood circulation plans that conceptualize future street plans and lot patterns to undeveloped parcels within five hundred (500) feet of the subject site. Circulation plans address future vehicular/bicycle/pedestrian transportation systems including bike lanes, sidewalks, bicycle/pedestrian paths, and destination points. A circulation plan is conceptual in that its adoption does not establish a precise alignment. An applicant for a subdivision or PUD is required to submit a circulation plan unless the applicant demonstrates to the Planning Official (or designee) one of the following:

i. An existing street or proposed new street need not continue beyond the land to be divided in order to complete or extend an appropriate street system or to provide access to adjacent parcels within five hundred (500) feet of the proposed development; or

ii. The proposed street layout is consistent with a street pattern adopted as part of the City's transportation system plan, or a previously adopted circulation plan.

g. The developer shall submit a narrative which includes a description of how the project complies with the City Comprehensive Plan and land development ordinances and with all of the preliminary plat conditions of approval set by the City Planning Commission.

h. Bylaw Requirements. If a homeowners association is required, two copies of the preliminary draft, their contracts and/or bylaws, shall be submitted with the preliminary subdivision plat or planned unit development plan.

B. Preliminary Plat Information. In addition to the general information described in subsection A above, the preliminary plat application shall consist of drawings and supplementary written material (i.e., on forms and/or in a written narrative) adequate to provide the following information:

1. General Information.

a. Name of subdivision (not required for partitions). This name must not duplicate the name of another subdivision in Clackamas County (please check with County Surveyor);

b. Date, north arrow, and scale of drawing;

c. Location of the development sufficient to define its location in the City, boundaries, and a legal description of the site;

d. A title block including the names, addresses and telephone numbers of the owners of the subject property and, as applicable, the designer, and engineer and surveyor if any, and the date of the survey if submitted; and

e. Identification of the drawing as a "preliminary plat."

2. Site Analysis.

a. Streets. Location, name, present width of all streets, alleys and rights-of-way on and abutting the site;

b. Easements. Width, location and purpose of all existing easements of record on and abutting the site;

c. Utilities. Location and identity of all utilities on and abutting the site. If water mains and sewers are not on or abutting the site, indicate the direction and distance to the nearest one and show how utilities will be brought to standards;

d. Topographic survey data shown by contour lines at five-foot vertical intervals for ground slopes fifteen (15) percent and greater, and at two-foot intervals for ground slopes of less than fifteen (15) percent or as required by the City. Survey data must be provided for the subject property and the surrounding area up to a distance of two hundred (200) feet from the property lines. Survey data shall be related to some established benchmark or other datum approved by the County Surveyor. This requirement may be waived for partitions when grades, on average, are less than six percent;

e. The location and elevation of the closest benchmark(s) within or adjacent to the site (i.e., for surveying purposes);

f. Potential natural hazard areas, including any floodplains, areas subject to high water table, landslide areas, and areas having a high erosion potential;

g. Natural resource areas, including wetland areas, streams, wildlife habitat, and other areas identified by the City or natural resource regulatory agencies as requiring protection. (See also Article 16.3 and relevant portions of the Comprehensive Plan.);

h. Site features, including existing structures, pavement, large rock outcroppings, areas having unique views, and drainageways, canals and ditches;

i. Designated historic and cultural resources on the site and adjacent parcels or lots;

j. The location, size and species of trees having a caliper (diameter) of six inches or greater at four feet above grade in conformance with Chapter 16.42;

k. North arrow and scale;

l. Name and address of project designer, if applicable; and

m. Other information, as deemed appropriate by the Planning Official. The City may require studies or exhibits prepared by qualified professionals to address specific site features and code requirements.

3. Proposed Improvements.

a. Public and Private Streets, Tracts, Driveways, Open Space and park Land; Location, Names, Right-of-Way Dimensions, Approximate Radius of Street Curves; and Approximate Finished Street Centerline Grades. All streets and tracts that are being held for private use and all reservations and restrictions relating to such private tracts shall be identified;

b. Easements. Location, width and purpose of all proposed easements;

c. Lots and Private Tracts (e.g., Private Open Space, Common Area, or Street). Approximate dimensions, area calculation (e.g., in square feet), and identification numbers for all proposed lots and tracts;

d. Proposed uses of the property, including all areas proposed to be dedicated to the public or reserved as open space for the purpose of surface water management, recreation, or other use; potential location of future buildings;

e. Proposed improvements, as required by Article 16.4 (Community Design Standards), and timing of improvements (e.g., in the case of streets, sidewalks, street trees, utilities, etc.);

f. Preliminary location of development showing those future buildings can meet siting and dimensional standards of the district;

g. The proposed source of domestic water;

h. The proposed method of sewage disposal;

i. Proposed method of surface water drainage and treatment if required;

j. The approximate location and identity of other utilities, including the locations of street lighting fixtures;

k. Proposed railroad crossing or modifications to an existing crossing, if any, and evidence of contact with the affected railroad and the Oregon Department of Transportation Rail Division regarding proposed railroad crossing(s);

l. Changes to navigable streams, or other watercourses. Status of public access to these areas shall be shown on the preliminary plat, as applicable;

m. Identification of the base flood elevation for development of more than two lots or one-half acre, whichever is less. Written evidence of initiation of a Federal Emergency Management Agency (FEMA) floodplain map amendment shall be required when development is proposed to modify a designated 100-year floodplain. FEMA approval of the amendment shall be a condition of City land use approval;

n. Evidence of contact with/from the road authority for any development requiring access to its facility(ies); and

o. Evidence of written notice to the applicable natural resource regulatory agency(ies) for any development within or adjacent to jurisdictional wetlands and other sensitive lands (see Article 16.3).

p. Upon the discretion of the Planning Official or designee, the applicant may be required to provide a building footprint analysis, demonstrating that proposed lots may accommodate a typical building footprint common to the Happy Valley area, that conforms with the underlying lot setbacks.

16.63.060 Approval criteria—Preliminary plat.

A. General Approval Criteria. The City may approve, approve with conditions or deny a preliminary plat based on the following approval criteria:

1. The proposed preliminary plat complies with the applicable Development Code sections and all other applicable ordinances and regulations. At a minimum, the provisions of this article, and the applicable chapters and sections of Article 16.2 (Land Use Districts), Article 16.3 (Specific Area Plan Districts and Overlay Zones), and Article 16.4 (Community Design Standards) shall apply. Where a variance is necessary to receive preliminary plat approval, the application shall also comply with the relevant sections of Article 16.7;

2. The proposed plat name is not already recorded for another subdivision, and satisfies the provisions of ORS Chapter 92;

3. The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities are laid out so as to conform or transition to the plats of subdivisions and maps of major partitions already approved for adjoining property as to width, general direction and in all other respects. All proposed public improvements and dedications are identified on the preliminary plat;

4. All proposed private common areas and improvements (e.g., homeowner association property) are identified on the preliminary plat;

5. Evidence that any required State and Federal permits have been obtained, or shall be obtained before approval of the final plat;

6. Evidence that improvements or conditions required by the City, road authority, Clackamas County, special districts, utilities, and/or other service providers, as applicable to the project, have been or can be met; and

7. If any part of the site is located within a specific area plan district, overlay zone, or previously approved master planned development, it shall conform to the applicable regulations and/or conditions.

B. Layout and Design of Streets, Blocks and Lots. All proposed blocks, lots and parcels conform to the specific requirements below:

1. All lots shall comply with the lot area, setback, and dimensional requirements of the applicable land use district (Article 16.2) and Section 16.50.030, Transportation standards, with the exception of lots created specifically for the purposes of fee acquisition in conjunction with either public or private utility projects, which may be any size.

2. Setbacks shall be as required by the applicable land use district (Article 16.2).

3. Each lot shall conform to the standards of Chapter 16.41, Access and Circulation.

4. Landscape or other screening may be required to maintain privacy for abutting uses. See Article 16.2, Land Use Districts, and Chapter 16.42, Landscaping.

5. In conformance with the Uniform Fire Code, a twenty (20) foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than one hundred fifty (150) feet from a public right-of-way, private street or approved access drive. See Chapter 16.41, Access and Circulation.

6. Where a common drive is to be provided to serve more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved subdivision or partition plat.

7. All applicable engineering design standards for streets, utilities, surface water management, and easements shall be met.

8. All cuts and fills shall comply with the standards and provisions in Section 16.50.100.

C. Easement Provisions. The following shall govern the location, improvement and layout of easements:

1. Utilities. Easements for utilities shall be provided on side and rear lot lines where deemed necessary by the appropriate service providers. Insofar as possible, easements shall be continuous, aligned from block to block within the development and compatible with adjoining existing developments. All easements shall not be less than five feet in width.

2. Unusual Facilities. Easements for unusual facilities such as high voltage electric transmission lines, drainage canals or pondage areas shall be of such width as is determined adequate by the responsible agency, including any necessary maintenance roads. These shall be fully designated upon the final plat or map, as to their use, purpose and ownership.

3. Watercourses. Where a development is traversed or bounded by a watercourse, drainageway, wasteway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially to the line of such watercourse, drainageway, channel or stream and of such width for construction, maintenance and control as will be adequate for the purpose as required by the responsible agency. For those developments which are bounded by a stream, stream bank easements shall be required for pedestrian paths. The width of watercourse easements shall be determined by the City and the developer using Chapter 16.50 and the Happy Valley drainage study as guides to the establishment of such easements.

4. Conservation. There shall be provided within any subdivision or planned unit development which borders or has within its boundaries a lake, pond, wetland or perennial stream, a conservation easement of thirty (30) feet in width along both sides of the lake or stream within which building construction shall not be allowed. The dimension shall be measured from the known or documented high water mark. The conservation easement shall be held by the homeowner's association, if any, or dedicated to the City. Necessary maintenance shall be provided by the grantor of the easement.

D. Minimum Improvement Standards.

1. All new street improvements shall conform with the adopted minimum installation, material and construction standards for all public street improvements pursuant to Chapter 16.50, the Happy Valley Transportation System Plan, and the City's Engineering Design Standards Details Manual.

2. All new streets within proposed subdivisions and PUDs shall be developed as City streets regardless of the size of the total development or the average lot size within the development; such developments may have private streets developed within them as approved by the City and pursuant to the criteria of Section 16.50.030; and

a. It shall clearly state on the final plat all the reservations and restrictions relating to such private streets;

b. A private street shall provide access to no more than five dwelling units;

c. Private streets may not constitute the total length of roads within a planned unit development;

d. To insure maintenance of such private roads there shall be established within the organization of any land division a legal and permanent procedure to insure said maintenance. Such procedure shall be prepared by the developer and/or property owner and approved by the City.

3. All streets within all proposed partitions, subdivisions and planned unit developments shall be a continuation of a County road or City street. A private street may serve a partition if the extension of a public street is not possible, but must meet the private street standards as described in subsection (D)(2) of this section. All new streets shall be compatible with and in accordance with the City's existing street development pattern and the adopted transportation plan.

E. County Surveyor's Requirements. The Clackamas County Surveyor shall require that all surveying and monumentation be pursuant to the appropriate State statutes.

F. Conditions of Approval.

1. The City may attach such conditions as are necessary to carry out provisions of this Code, and other applicable ordinances and regulations, and may require reserve strips be granted to the City for the purpose of controlling access to adjoining undeveloped properties. See Chapter 16.50 (Public Facilities).

2. As a condition of any approval, a waiver of remonstrance against the formation of a local improvement district for the construction, improvement or extension of Level I and Level II services which benefit the property owner shall be required by the City.

3. In situations where this Code requires the dedication of real property to the City, the City shall either: (a) include in the written decision evidence that shows that the required property dedication is directly related to and roughly proportional to the projected impacts of the development on public facilities and services, or (b) delete the dedication as a condition of approval.

16.63.070 Variances authorized.

Variances to the standards of this chapter shall be processed in accordance with Chapter 16.71, Variances. Applications for variances shall be submitted at the same time an application for land division or lot line adjustment is submitted, and the applications shall be reviewed together.

16.63.080 Final plat submission requirements and approval criteria.

A. Submission Requirements. Final plats shall be reviewed and approved by the City prior to recording with Clackamas County. The applicant shall submit the final plat within two years of the approval of the preliminary plat as provided by Section 16.63.040. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the Planning Official.

B. Approval Criteria. The Planning Official and City Engineer shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:

1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;

2. All public improvements required by the preliminary plat have been installed and approved by the City Engineer or appropriate service provider (e.g., road authority). Alternatively, if eighty (80) percent of the required public improvements are complete, and the developer has provided a performance guarantee for the incomplete work in accordance with Section 16.63.100;

3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;

4. The streets and roads held for private uses have been approved by the City as conforming to the preliminary plat;

5. The plat and deed contain a dedication to the public of all public improvements, including, but not limited to, streets, public pathways and trails, access reserve strips, parks, sewage disposal storm drainage and water supply systems;

6. The applicant has provided copies of all recorded homeowners association covenants, conditions and restrictions (CC&Rs); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;

7. The plat complies with the applicable sections of this Code (i.e., there have been no changes in land use or development resulting in a Code violation since preliminary plat approval);

8. Certification by the City or service district, as applicable, that water and sanitary sewer service is available to every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider/partitioner to the City that such services will be installed in accordance with Chapter 16.50, Public Facilities, and the bond requirements of Section 16.63.100. The amount of the bond, contract or other assurance by the subdivider/partitioner shall be determined by a registered professional engineer, subject to review and approval by the City;

9. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner established by the U.S. Geological Survey, or giving two or more permanent objects for identifying its location.

16.63.090 Public improvements required.

Before City approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, if eighty (80) percent of the required public improvements are complete, the subdivider/partitioner shall provide a performance guarantee for the incomplete work, in accordance with Section 16.63.100.

16.63.100 Performance guarantee.

Performance Guarantee Required. When a performance guarantee is required under Section 16.63.090, the subdivider/partitioner shall file an assurance of performance with the City pursuant to Section 16.50.080.

16.63.110 Filing and recording.

A. Filing Plat with County. Within sixty (60) days of the City approval of the final plat, the applicant shall submit the final plat to Clackamas County for signatures of County officials as required by ORS Chapter 92.

B. Proof of Recording. Upon final recording with the County, the applicant shall submit to the City a mylar copy and three paper copies of all sheets of the recorded final plat. This shall occur prior to the issuance of building permits for the newly created lots.

C. Prerequisites to Recording the Plat.

1. No plat shall be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;

2. No plat shall be recorded until it is approved by the County Surveyor in the manner provided by ORS Chapter 92.

16.63.120 Re-platting and vacation of plats.

A. Re-platting and Vacations. Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed.

B. Procedure. All applications for a re-plat or vacation of a plat shall be processed in accordance with the procedures and standards for a plat vacation, street vacation, property line adjustment (including "re-plat") (See Chapter 16.61, Types of Review Procedures). The road authority(ies) shall be notified of all applications for re-plats and street vacations. All street vacations shall also conform to the ORS Chapter 271.

C. Basis for Denial. A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.

D. Recording of Vacations. All approved plat vacations shall be recorded in accordance with Section 16.63.110 and the following procedures:

1. Once recorded, a re-plat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and

2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications described on the plat.

E. After Sale of Lots. When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.

F. Street Requirement. Except as prohibited by law (e.g., ORS 92.837, Manufactured Home Park), in approving a right-of-way vacation or re-plat, the City may require dedication of access ways, paths or trails as a condition of the vacation of any public easement or right-of-way, in order to establish or maintain a safe, convenient and direct pedestrian and bicycle circulation system. Such requirements shall be coordinated with the applicable road authority.

16.63.130 Planned unit development.

A. Purpose. This section of the Code serves to specify the purposes, objectives, procedures, standards, requirements, conditions and other information necessary to accomplish a planned unit development (PUD). The purpose and intent of this section is to allow an alternative to the traditional subdivision that encourages conservation of natural features by relating design to the existing landscape; through the efficient use of land and public services (particularly, but not limited to situations where the existence of slopes, drainageways, or other natural features may preclude traditional subdivision design); and the creation of public and private common open space.

B. Objectives. The following, though not requirements, are the objectives of the PUD portion of this chapter and shall be utilized to realize the inherent advantages of coordinated, flexible, comprehensive, long-range planning of such development:

1. To provide more desirable living environments by preserving the natural character of open field, stands of trees, brooks, ponds, floodplains, hills and similar natural assets;

2. To encourage, with regard to residential use, the provision of open space and the development of recreational facilities in a generally central location and within reasonable distance of all living units;

3. To encourage developers to use a more creative and flexible approach in the development of living areas within the City;

4. To provide for more efficient and aesthetic use of open areas;

5. To encourage variety in the physical development pattern of the community by providing a variety and mixture of housing types and siting as well as the design of access and circulation.

C. Area of Applicability. PUDs may be established in residential, commercial or industrial districts on parcels of land, which are suitable for and of sufficient size to be planned and developed in a manner consistent with the purposes and objectives of this section.

D. All residential developments shall be developed as PUDs pursuant to the provisions in Section 16.63.130 whenever one or more of the following criteria apply:

1. Any site larger than two acres where a minimum of ten (10) percent of the site contains environmentally constrained areas subject to Chapters 16.35 and/or Sections 16.34.010 through 16.34.080;

2. All properties, either individual tax lots or contiguous lots under common ownership, consisting of fifty (50) or more acres on which are proposed to be developed more than one hundred (100) units;

3. Any development in a residential district proposing more than four manufactured homes or multifamily housing;

4. Any development utilizing density transfer pursuant to the provisions of Chapter 16.63.

E. Necessity for Application. For the purpose of considering any planned unit development, the developer may apply to the City at any time after the pre-application conference and review, using such forms as may be provided for the processing of a preliminary planned unit development. If the planned unit development includes a subdivision, one form for both purposes will be satisfactory.

F. Filing Requirements.

1. These requirements shall be the same as found in Section 16.63.050.

2. At the time of formal application, the developer shall submit the following plan elements in detailed graphic form:

a. Proposed land use and densities (see Section 16.63.020(F) for density and calculations);

b. Building types and densities;

c. Circulation pattern;

d. Parks, playgrounds, open space, land dedication and easements;

e. Existing natural features;

f. Related land maps (topography, etc.);

g. Location, arrangement, etc. of auto parking;

h. Preliminary renderings of typical buildings;

i. Preliminary tree planting schedule;

j. Preliminary landscape plan in accordance with the requirements of Chapter 16.42.

3. At the time of formal application, the developer shall submit the following program elements in detailed written form:

a. Proposed ownership pattern;

b. Operation and maintenance proposal;

c. Waste disposal facilities;

d. Lighting;

e. Water supply;

f. Tables illustrating acres for dwellings, off-street parking, streets, parks, playgrounds, dedicated lands, open space, schools and percentages of the gross and net development areas for each;

g. Tables illustrating overall density, density by dwelling types and details of any density bonus or calculations;

h. Preliminary documents providing for maintenance of open space and dedication of public spaces, development rights, easements, drainageways and land dedications or fees in lieu thereof;

i. General time table of development;

j. Qualifications of Proposed Design Team. All master plans for residential and neighborhood planned unit developments shall be prepared by professionals qualified in at least two of the four following: (i) a licensed architect, (ii) a registered professional engineer, (iii) a registered landscape architect, or (iv) a member of the American Planning Association;

k. Proof of authorization for the agent to act on the landowner's behalf, if appropriate, on a form supplied by the City, with all signatures notarized;

l. Stages of development and construction.

G. Distribution of Preliminary Subdivision Plats or Planned Unit Development Plans. As found in Section 16.63.050.

H. Approval Criteria.

1. The preliminary plat approval criteria as described in Section 16.63.030;

2. In considering the preliminary planned unit development proposal, the Planning Commission shall apply the following additional criteria when making a determination:

a. Density.

i. The number of dwelling units permitted in a development is based on the net development area which is determined by subtracting twenty (20) percent of the gross development area and dividing by the minimum lot area per dwelling unit as required by the development district,

ii. Where any site contains more than one development district within its project boundaries, any density calculations shall be applied in the same proportion as that of the development district which are represented in the project area,

iii. In any planned unit development, the total siting of density as calculated through Section 16.63.020(F) in any steep slopes and natural resource overlay area shall not exceed the net density of the applicable district.

b. Open Space.

i. All planned unit developments shall have a minimum of twenty (20) percent of the development's gross land area dedicated to public or commonly held open space and/or recreational area. The extent to which any type of open space satisfies the total open space requirement shall be in the sole discretion of the City. This twenty (20) percent requirement does not affect the density calculation.

(A) Publicly dedicated open space must be adequate to carry out the Happy Valley Parks Master Plan, at the determination of the City. In all other instances, lands which are least suitable for development and/or which offer the greatest natural habitat potential should be given the highest priority for dedication as open space. Dedicated open space shall be suitable for linkage through a network of trails, bike paths, and greenways.

(B) Considering the existing and planned public parks within the City, publicly dedicated open spaces within any PUD should focus on activities not otherwise available or planned for in existing and planned public parks.

ii. Land area to be used for scenic, landscaping or open recreational purposes within the development shall not include streets, rights-of-way, driveways or parking spaces.

iii. All open space areas shall be improved, preserved and maintained as a natural area and/or recreation area. All proposed open space areas that are identified as significant natural resources by the City's significant wetlands and riparian corridors map, the urban forestry plan tree inventory, or any other ordinance of the City, shall be enhanced, preserved and maintained as natural areas. Prior to preliminary plat approval, the applicant shall submit a landscape plan showing the required elements detailed below in the corresponding subsections (H)(2)(c) (Natural Area) and (H)(2)(d) (Recreational Area) for approval by the review body. Landscape plans shall incorporate existing natural features wherever possible.

iv. All trees in open space areas, except hazard trees and trees in utility or access easements, over six inches in diameter at breast height (DBH) shall be retained on the site regardless of proposed use and incorporated into the required landscape plan. Open space areas shall provide assurance to the City for one hundred twenty-five (125) percent of the estimated cost of the open space project through a bond, escrow account or certified letter of credit. Open space areas shall be completed as shown in the approved plans and inspected and approved by the City prior to final approval ("walk-through") of the infrastructure improvements, or shall be provided for by financial guarantee. The City will require a maintenance bond or other financial guarantee for the open space improvements which will be held for two years after improvements are made to ensure plant survival. Plants that do not survive shall be replaced by the applicant during the first two years after the open space is improved. The applicant may obtain park system development charge credits for open space areas that are improved according to this section and then

dedicated to the City if located within the Happy Valley Parks Master Plan. The City reserves the right to refuse offers of dedication.

v. For all natural features on the site, including streams, intermittent streams, ponds and/or wetlands, the applicant shall obtain verification from the appropriate State and Federal agencies of jurisdiction over the feature. If a State and/or Federal agency claims jurisdiction over a natural feature on the site, and where the requirements of this chapter conflict with the requirements of the regulatory agency(s), the most stringent requirements shall apply.

c. Natural Area. The required landscape plan for a natural area shall be prepared by a certified professional biologist, ecologist and/or landscape architect and include:

i. Clearly defined methods for improving and protecting native vegetation and habitat on the site and mitigating the impacts of the proposed PUD;

ii. Planting of native plants that are on the City native plant list (see Happy Valley Plant List, Appendix A) and of the same ecosystem type that existed on the site prior to initial development disturbances;

iii. All proposed open space areas that are included in the City's urban forestry plan tree inventory shall incorporate the management suggestions from the plan for that area;

iv. Plantings shall include a mix of at least three species each of groundcover, shrubs and trees. Plantings adjacent to significant water features shall be designed to provide shade for the water feature;

v. Plantings shall be of a sufficient quantity to provide structurally diverse vegetation on the site;

vi. Native vegetation shall be verified by the professional preparing the plan to cover at least seventy (70) percent of the site in five years. Plantings shall be arranged to replicate natural conditions, using methods such as clustering where appropriate. Exceptions to seventy (70) percent cover requirement may be granted by the review body if the applicant submits substantial evidence to convince the review body that the site cannot achieve this level of cover;

vii. A plan for removal of harmful or invasive species, as identified in the Nuisance or Prohibited Plants sections of the Happy Valley Plant List (Appendix A), on the site detailing specific treatments, timing and long-term maintenance to rid the site of invasive species. All invasive species on the site shall be removed prior to dedication of the site to the homeowner's association or the City. The use of herbicides for controlling harmful and invasive species should be minimized. The following best management practices are required where herbicide application is deemed necessary by the professional preparing the landscape plans:

(A) If herbicides, pesticides and/or fertilizers are proposed, an evaluation of application methods, effects on target and nontarget species, and the potential impacts to aquatic and terrestrial systems shall be included in the plan. Consider persistence, soil/water mobility, toxicity and plant uptake when selecting appropriate chemicals,

(B) Treatments for the control or removal of invasive plants in riparian/wetland areas shall be limited to hand or wick applications by qualified personnel,

(C) Apply chemicals during calm, dry weather to avoid transport from target areas by wind and/or water. Avoid applications where irrigation water may wash chemicals from target areas,

(D) Maintain unsprayed buffer areas near aquatic habitats and other sensitive areas. A minimum two hundred (200) foot radius, no-spray buffers shall be maintained around all known populations of sensitive, threatened and endangered plant and animal species,

(E) Application shall not occur in the vicinity of wetlands or ponds from January through June to minimize the potential for adverse impacts to amphibians during the breeding and egg development periods;

viii. A detailed map showing the natural area, the proposed improvements on the site, and the site's connections to other wildlife habitat areas as determined by a certified wildlfe biologist. If there are no existing connections, detail methods for providing connections. Exceptions to this requirement may be granted by the review body if the applicant submits substantial evidence to the review body that the site has no opportunity for connectivity;

ix. A three-year irrigation plan for new plantings detailing available irrigation facilities or other watering methods that will be used to serve the site. The applicant shall water the new plantings using a timed irrigation system or other watering method during the months of June through September;

x. If a passive recreational facility is proposed, a plan for the facility including methods for installing the facility with minimal impact on the natural area. The professional preparing the plan shall considering buffers for streams and wetlands, erosion, and removal of trees when locating the passive recreational facility. Areas with significant natural resources may require permits from state and/or Federal regulatory agencies to install such facilities. All trails and pathways shall conform to the City's transportation system plan;

xi. A ten (10) year maintenance plan for the open space with cost projections to be provided to the future owners of the property (the homeowner's association or Happy Valley). If the open space is dedicated to the homeowner's association, the codes, covenants, and restrictions of the PUD shall include a provision requiring the homeowner's association to abide by the approved ten (10) year maintenance plan or submit an alternative plan to the Planning Official or designee for approval. If the open space is dedicated to the City, the City Public Works Department agrees to abide by the ten (10) year maintenance plan or provide an alternative plan for approval by the Planning Official or designee.

d. Recreational Area. Proposed recreational uses may be passive or active. The recreational use shall be approved by the review body and shall conform with the Happy Valley Parks Master Plan, as appropriate, and the City's Transportation System Plan. Passive recreational facilities proposed in a natural area are subject to the requirements of the Natural Area (subsection (I)(b)(5)(A) of this section). Active recreational facilities in

a recreational area are subject to the criteria of this subsection and shall not abut arterial roadways or include non-active spaces such as stormwater detention facilities. Recreational facilities located near an arterial roadway shall be separated by a minimum distance of twenty (20) feet, to include landscaping per subsection (I)(2)(d)(i) and a minimum six-foot tall solid wood fence. The required landscape plan for a recreational area shall be prepared by a certified professional landscape architect or other qualified professional and shall include:

i. Planting plans to include a mix of at least three species each of groundcover, shrubs, and trees. Plantings shall not include any plants on the City's nuisance plant list (see Happy Valley Plant List, Appendix A). Plantings shall provide for at least fifty (50) percent groundcover of the site and shall provide for at least twenty (20) percent of the site being planted with a mix of trees and shrubs. Use of native plant species is encouraged;

ii. A plan for removal of harmful or invasive species, as identified by in the nuisance or prohibited plants sections of the Happy Valley Plant List (Appendix A), on the site detailing specific treatments, timing, and long-term maintenance to rid the site of invasive species. All harmful or invasive species on the site shall be removed prior to dedication of the site to the homeowner's association or the City. The use of herbicides for controlling harmful and invasive species should be minimized. The following best management practices are required where herbicide application is deemed necessary by the professional preparing the landscape plans:

(A) If herbicides, pesticides and/or fertilizers are proposed, an evaluation of application methods, effects on target and nontarget species, and the potential impacts to aquatic and terrestrial systems shall be included in the plan. Consider persistence, soil/water mobility, toxicity and plant uptake when selecting appropriate chemicals,

(B) Treatments for the control or removal of invasive plants in riparian/wetland areas shall be limited to hand or wick applications by qualified personnel,

(C) Apply chemicals during calm, dry weather to avoid transport from target areas by wind and/or water. Avoid applications where irrigation water may wash chemicals from target areas,

(D) Maintain unsprayed buffer areas near aquatic habitats and other sensitive areas. A minimum two hundred (200) foot radius, no-spray buffers shall be maintained around all known populations of sensitive, threatened and endangered plant and animal species,

(E) Application shall not occur in the vicinity of wetlands or ponds from January through June to minimize the potential for adverse impacts to amphibians during the breeding and egg development periods;

iii. A description of the recreational use provided and a plan for installing the associated capital improvements to provide the recreational use. Plans shall include facilities for pedestrian access to the use and around the site. All pedestrian connections shall conform to the City's transportation system plan;

iv. Plans for an irrigation and drainage system to serve the site. Timed irrigation systems and drainage systems shall be installed prior to landscaping the site;

v. A ten (10) year maintenance plan for the open space with cost projections to be provided to the future owners of the property (the homeowner's association or Happy Valley). If the open space is dedicated to the homeowner's association, the codes, covenants, and restrictions of the PUD shall include a provision requiring the homeowner's association to abide by the approved ten (10) year maintenance plan or submit an alternative plan to the Planning Official or designee for approval. If the open space is dedicated to the City, the City Public Works Department agrees to abide by the ten (10) year maintenance plan or provide an alternative plan to be approved by the Planning Official or designee;

vi. The applicant shall submit a landscape plan for any proposed detention facility. The landscape plan shall include a mixture of native plants, trees and shrubs suitable to the environment of the facility, with the intention of screening and buffering the facility from surrounding residences and providing shade to the interior of the facility. An irrigation system shall be installed to water plants in the detention facility during the months of June through September;

vii. Open space tracts shall be recorded as tracts on the final plat. For the assurance of permanent open space, the applicant shall record all open space tracts as permanent open space on the final plat.

e. Lot Size and Dimensions. Minimum area, width, depth, frontage and setback requirements may be less than development district minimums if in accordance with the general development plan, except that the garage of any structure shall not be located less than twenty (20) feet from a public right-of-way and minimum lot size for single-family detached lots shall not be less than five thousand (5,000) square feet within eighty (80) percent of the net developable area of the subject development. Within the twenty (20) percent remainder area, lot sizes may decrease by a maximum of ten (10) percent. Lots which are located on the perimeter of a proposed development in all residential zones which are adjacent to lots in an R-10, R-15, R-20, or R-40 zone upon which are constructed single-family dwellings, may not be less than seventy-five (75) percent of the average lot area per unit of the immediately abutting lots, or the development district minimum lot size of the subject parcel, whichever is less. If adjacent lands are undeveloped or minimum densities on the subject parcel cannot be met due to natural resource protection requirements, this provision does not apply. All PUD development involving clustered development due to natural resource constraints or involving attached housing shall be subject to a perimeter setback equal to the minimum rear, interior side or street side yard setback of the adjacent residential district, as applicable.

f. Staging.

i. Applicant can elect to proceed with the development in successive stages and steps (schedule must be included in the general development plan). Each stage must be eighty (80) percent complete within itself before the successive stage may be commenced.

ii. The review body shall require development to proceed in stages if Level I facilities serving the site are not adequate to permit full development of the project

at any given time. Full development must be staged to be commensurate with the full and adequate provision of Level I facilities and services.

I. Minimum Design Standards. As pursuant to Section 16.63.060(B).

J. Minimum Improvement Standards. As pursuant to Section 16.63.060(D).

K. Final Procedure—Planned Unit Development.

1. As pursuant to Section 16.63.080;

2. Changes and Modifications.

a. Major Changes. Major changes in the approved PUD shall be considered the same as a new petition and shall be made in accordance with the procedures specified in this section.

b. Minor Changes. Minor changes in the general plan may be approved by the Planning Official or designee or designee following the administrative decision process provided that such changes:

i. Do not increase residential or employment densities;

ii. Do not change boundaries;

iii. Do not change any use;

iv. Do not change the location or amount of land devoted to specific land uses.

Such changes may include minor shifting of the location of buildings, setbacks, proposed streets, public or private ways, utility easements, recreation facilities, public open spaces, etc. For quantifiable changes, a general threshold of ten (10) percent shall be used in determining if a proposed change is minor in nature. For example, ten (10) percent of a required yard, ten (10) percent of lot size, etc.

L. Density Calculations.

1. Purpose. Density calculation is the means by which density for any parcel may be determined and ultimately within that parcel in a more efficient and land conscious manner. This portion of the Land Development Code provides the method for calculating the overall density for any given parcel of land which may contain both buildable and unbuildable areas.

2. Benefit. The following benefits may accrue to the property developer and the City from density calculations:

a. The minimal extension of services within a cluster as opposed to the entire parcel;

b. Overall reduced development costs and the resultant lower housing prices;

c. Greater ease of maintenance of services and facilities;

d. Energy savings;

e. Open space;

f. Greater efficiency of land use;

g. Protection of slope and resource areas, such as drainageways and creek channels, and hazard areas.

3. Procedure. Density calculations shall be determined by the procedures in Section 16.63.020(F).

16.63.140 Property line adjustments.

A property line adjustment is the modification of lot boundaries, when no lot is created or removed. The application submission and approval process is as follows:

A. Submission Requirements. All applications for property line adjustment shall be made on forms provided by the City and shall include information required for a Type I application, as governed by Section 16.61.020. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of natural resource areas and significant trees; existing fences and walls; and any other information deemed necessary by the Planning Official or designee for ensuring compliance with City codes.

B. Approval Process.

1. Decision-Making Process. Property line adjustments shall be reviewed by means of a Type I procedure, as governed by Section 16.61.020, using approval criteria contained in Subsection 16.63.140(C) below. The road authority(ies) shall be notified of lot line adjustments that may affect property access or traffic volumes or operations on their facilities.

2. Time Limit on Approval. The property line adjustment approval shall be effective for a period of one year from the date of approval, during which time it must be recorded.

3. Lapsing of Approval. The property line adjustment approval shall lapse if:

a. The property line adjustment is not recorded within the time limit in Section 16.63.140(B)(2);

b. The property line adjustment has been improperly recorded with Clackamas County without the satisfactory completion of all conditions attached to the approval; or

c. The final recording is a departure from the approved plan.

C. Approval Criteria. The Planning Official or designee shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:

1. State Law. All property line adjustments shall be consistent with ORS 92.192.

2. Parcel Creation. No additional parcel or lot is created or removed by the lot line adjustment.

3. Lot Standards. All lots and parcels conform to the applicable lot standards of the land use district (Article 16.2) including lot area, dimensions, setbacks, and coverage, and no resulting lot is wholly comprised of a flood hazard area or jurisdictional wetland. If a lot is nonconforming as to any development standard, it shall not be made even less conforming by the property line adjustment.

4. Access and Road Authority Standards. All lots and parcels conform to the standards or requirements of Chapter 16.41 Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made even less conforming by the property line adjustment.

5. Any adjustment or removal of a property line or public easement involving a parcel in a recorded partition plat or lot line in a recorded subdivision shall be performed by means of the

"re-plat" process specified in ORS 92.180 to 92.190, subject to final review and approval by the Clackamas County Surveyor (see Chapter 16.61, Types of Review Procedures).

D. Recording Property Line Adjustments.

1. Recording. Upon the City's approval of the proposed property line adjustment, the applicant shall record the property line adjustment with Clackamas County within one year of approval (or the decision expires), and submit a copy of the recorded survey map and deeds to the City, to be filed with the approved application.

2. Time Limit. The applicant shall submit a copy of the recorded property line adjustment survey map and deeds to the City within fifteen (15) days of recording and prior to the issuance of any building permits on the re-configured lots.

E. Extension. The City shall, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year provided that:

1. No changes are made to the original property line adjustment as approved by the City;

2. The applicant can show intent of recording the approved plan within the one-year extension period;

3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the property line adjustment conflicts with a Code change, the extension shall be denied; and

4. The extension request is made before expiration of the original approved plan.

Chapter 16.64 CONDITIONAL USE PERMITS

16.64.010 Purpose.

There are certain uses, which, due to the nature of their impacts on surrounding land uses and public facilities, require a case-by-case review and analysis. These are identified as "conditional uses" in Article 16.2, Land Use Districts. The purpose of Chapter 16.64 is to provide standards and procedures under which a conditional use may be permitted, enlarged or altered if the site is appropriate and if other appropriate conditions of approval can be met.

16.64.020 Approvals process.

A. Initial Application. An application for a new conditional use shall be processed as a Type III-PC procedure (Section 16.61.040). The application shall meet submission requirements in Section 16.64.030, and the approval criteria contained in Section 16.64.040.

B. Modification of Approved or Existing Conditional Use. Modifications to approved or existing conditional uses shall be processed in accordance with Chapter 16.66, Modifications.

16.64.030 Application submission requirements.

In addition to the submission requirements required in Chapter 16.61, an application for conditional use approval must include the following information in subsections A through H, as applicable. For a description of each item, please refer to Section 16.62.030, Design Review:

A. Existing site conditions;

B. Site plan;

C. Preliminary grading plan;

D. A landscape plan;

E. Architectural drawings of all structures;

F. Drawings of all proposed signs;

G. A copy of all existing and proposed restrictions or covenants;

H. Narrative report or letter documenting compliance with all applicable approval criteria in Section 16.64.040.

16.64.040 Criteria, standards and conditions of approval.

The City shall approve, approve with conditions, or deny an application for a conditional use or to enlarge or alter a conditional use based on findings of fact with respect to each of the standards and criteria in subsections A through C.

A. Use Criteria.

1. The site size, dimensions, location, topography and access are adequate for the needs of the proposed use, considering the proposed building mass, parking, traffic, noise, vibration, exhaust/emissions, light, glare, erosion, odor, dust, visibility, safety, and aesthetic considerations;

2. The negative impacts of the proposed use on adjacent properties and on the public can be mitigated through application of other Code standards, or other reasonable conditions of approval; and

3. All required public facilities have adequate capacity to serve the proposal.

B. Site Design Standards. The design review approval criteria (Section 16.62.030) shall be met.

C. Conditions of Approval. The City may impose conditions that are found necessary to ensure that the use is compatible with other uses in the vicinity, and that the negative impact of the proposed use on the surrounding uses and public facilities is minimized. These conditions include, but are not limited to, the following:

1. Limiting the hours, days, place and/or manner of operation;

2. Requiring site or architectural design features which minimize environmental impacts such as noise, vibration, exhaust/emissions, light, glare, erosion, odor and/or dust;

3. Requiring larger setback areas, lot area, and/or lot depth or width;

4. Limiting the building or structure height, size or lot coverage, and/or location on the site;

5. Designating the size, number, location and/or design of vehicle access points or parking areas;

6. Requiring street right-of-way to be dedicated and street(s), sidewalks, curbs, planting strips, pathways, or trails to be improved;

7. Requiring landscaping, screening, drainage, water quality facilities, and/or improvement of parking and loading areas;

8. Limiting the number, size, location, height and/or lighting of signs;

9. Limiting or setting standards for the location, design, and/or intensity of outdoor lighting;

10. Requiring berms, screening or landscaping and the establishment of standards for their installation and maintenance;

11. Requiring and designating the size, height, location and/or materials for fences;

12. Requiring the protection and preservation of existing trees, soils, vegetation, watercourses, habitat areas, drainage areas, historic resources, cultural resources, and/or nature resource lands;

13. Requiring the dedication of sufficient land to the public, and/or construction of pedestrian/bicycle pathways in accordance with the adopted plans, or requiring the recording of a local improvement district non-remonstrance agreement for the same. Dedication of land and construction shall conform to the provisions of Chapter 16.41, and Chapter 16.42 in particular.

16.64.050 Additional development standards.

A. Concurrent Variance Application(s). A conditional use permit shall not grant variances to regulations otherwise prescribed by the Development Code. Variance application(s) may be filed in conjunction with the conditional use application, and both applications may be reviewed at the same hearing.

B. Additional Development Standards. Development standards for specific uses are contained in Article 16.2, Land Use Districts.

Chapter 16.65 MASTER PLANNED DEVELOPMENTS

16.65.010 Purpose.

The purposes of this section are to:

A. Implement the Comprehensive Plan and applicable land use district(s) by providing a means for master planning large development sites;

B. Encourage innovative planning that results in projects that benefit the community (i.e., through compatible mixed use development, improved protection of open spaces, transportation options and consistent application of standards in phased developments);

C. Preserve to the greatest extent possible the existing landscape features and amenities that may not otherwise be protected through conventional development;

D. Facilitate the review of multi-phased developments that are intended to be constructed over a three- to seven-year period and ensure that individual phases will be coordinated with each other over the duration of the final master plan;

E. Ensure that a full range of public facilities and services are available or will be provided for the proposed phased development and to plan the extension of necessary public infrastructure in a timely and efficient manner;

F. Determine specific land uses, a range of minimum to maximum square footage of nonresidential uses and a range of minimum to maximum densities of residential uses, the arrangement of uses, and the location of public facilities and transportation systems;

G. Identify, during the public review process, potential impacts, including, but not limited to, noise, shading, glare, utility capacity and traffic and consider alternatives for mitigating these impacts to affected properties and/or public facilities;

H. Provide the property owner with the assurance needed over the long term to plan for and execute the proposed development.

16.65.020 Applicability.

A. A master plan prepared in accordance with this chapter is required for the following:

1. A quasi-judicial application to rezone sites (twenty (20) acres and larger). A preliminary master plan may be submitted for review concurrently with the zone change application or at a later date; however, in no case shall a change to the official zoning map become effective until a final master plan has been approved and effective for the site.

2. Master plans within these areas shall encourage mixed use developments which will provide commercial retail and office employment opportunities, and compact residential neighborhoods close to the commercial services within the City.

3. Development within the Regional Center Mixed Use (RC-MU) zone.

4. Developments within the Mixed Commercial Center (MCC) zone involving twenty (20) acres or more of land.

B. An applicant may elect to develop a project as a master planned development in compliance with the requirements of this chapter provided the site is at least twenty (20) acres in size. A site may be within any zone or combination of zones and the master plan may allow any combination of uses permitted by the underlying zone or zones within applicable mapped zoning district boundaries.

16.65.030 Review and approvals process.

A. Review Steps. There are two required steps to master plan approval, which may be reviewed individually or combined into one package for concurrent review:

1. The approval of a preliminary master plan; and

2. The approval of a final master plan.

B. Approval Process.

1. The preliminary master plan shall be reviewed using the Type III-PC procedure in Section 16.61.040, the submission requirements in Section 16.65.050, and the approval criteria in Section 16.65.060.

2. The final master plan shall be reviewed using the Type II procedure in Section 16.61.030, to ensure substantial compliance with the approved preliminary plan and the criteria in Section 16.65.090.

C. The preliminary master plan may be reviewed concurrently with other applications including a comprehensive plan/zoning map amendment, preliminary land division, specific area plans, land use district map and text amendments.

D. A land division (final plat), design review, conditional use permit or variance application that implements the various phases of proposed development shall not be submitted concurrently with the preliminary master plan. These applications may be submitted after final master plan approval becomes effective, as described in Section 16.65.100.

E. A neighborhood meeting is required prior to submittal of a preliminary master plan application. In order to provide the opportunity for early citizen involvement in the master plan review process, the applicant shall provide notice and invite citizen participation by initiating a neighborhood meeting. The meeting shall be scheduled after the pre-application meeting and prior to the formal submittal of a preliminary master plan application. The applicant shall be responsible for scheduling and organizing the meeting, arranging the meeting place, notice and all related costs. The notice shall provide a brief description of the proposal and shall be mailed to those property owners and residents within three hundred (300) feet of the proposed master plan. The meeting may be held in any public or private building capable of accommodating the proceeding. The building selected should be in the vicinity of the proposed development. The applicant shall submit a summary of the questions raised and responses made at this meeting with the preliminary master plan application as required in Section 16.65.050.

16.65.040 Modification of district standards (Article 16.2) and community design standards (Article 16.4).

The district standards in Article 16.2 and design standards of Article 16.4 may be modified through the master plan approval without the need for variances, except that the following standards within Articles 16.2 and 16.4 shall not be modified:

A. Public improvement standards and engineering design criteria shall not be modified without variance to such standards approved by the City Engineer. The City may grant such variances concurrently with other planned development approvals;

B. Residential densities, as allowed under the Comprehensive Plan; and

C. Industrial and commercial uses, if not otherwise allowed in a residential district, shall not be allowed in a residential district master plan.

16.65.050 Preliminary master plan submission.

A. General Submission Requirements. The applicant shall submit an application containing all of the general information required for a Type III-PC procedure, as governed by Section 16.61.040. In addition, the applicant shall submit the following:

1. A statement of planning objectives to be achieved by the planned development through the particular approach proposed by the applicant. This statement should include a description of the character of the proposed development and the rationale behind the assumptions and choices made by the applicant;

2. The proposed number of residential units and/or square footage of commercial, industrial and/or public uses and the density or intensity of proposed uses, including applicable Floor Area Ratios (FARs);

3. Narrative report or letter documenting compliance with the applicable approval criteria contained in Section 16.65.060;

4. Special studies prepared by qualified professionals may be required by the Planning Official, Planning Commission or City Council to determine potential traffic, geologic, noise, environmental, natural resource and other impacts, and required mitigation.

B. Additional Information. In addition to the general information described in subsection A above, the concept plan, data, and narrative shall include the following exhibits and information:

1. Existing conditions map, as defined in Section 16.62.030, Design review application submission requirements;

2. A vicinity map drawn to scale depicting existing bus stops, streets, driveways, pedestrian and bicycle connections, fire hydrants and other transportation/fire access issues within three hundred (300) feet of the proposed master plan site;

3. Proposed site plan identifying land uses, building envelopes, pedestrian, bicycle and vehicular circulation and access, parking areas, open space, utility connections, boundaries of existing and proposed land use districts and other information necessary to convey the general development plan;

4. Grading concept and stormwater management plan including existing and proposed elevations, site grades and contours, general drainage patterns and discharge locations, and the estimated size and location of stormwater management systems components;

5. Landscape concept (e.g., shows retention of existing vegetation and general planting areas);

6. Architectural concept (e.g., information sufficient to describe architectural styles, building heights, and general materials);

7. Sign concept plan (e.g., locations, general size, style and materials of signs);

8. A public right-of-way/easement/public place map depicting the reservation, dedication, or use of the proposed master plan site for public purposes, including, but not limited to: rights-of-way showing the name and location of all existing and proposed public and private streets within or on the boundary of the proposed master plan site, the right-of-way and paving dimensions, and the ownership and maintenance status, if applicable, and the location, width and construction material of all existing and proposed sidewalks; pedestrian access ways and trails; proposed easements; existing easements; parks; open spaces, including plazas; transit facilities; and school sites;

9. A Traffic Impact Study, as specified in Section 16.61.090, the scope of which shall be established by the City's Traffic Engineer;

10. A Phasing Plan. The phasing plan shall illustrate the proposed location of buildings, streets, utilities and landscaping. Phasing shall progress in a sequence that provides street connectivity between the various phases and accommodates other required public improvements such as wastewater facilities, stormwater management, electricity and water. The phasing plan shall consist of maps and a narrative with an overall schedule or description

of on-/off-site phasing including, but not limited to: the type, location and timing of proposed uses, building locations; proposed public facilities including on-/off-site streets and traffic signals or other traffic control devices and utilities with the designation of construction and maintenance responsibility; estimated start/completion dates with a proposed type of financial guarantee, including, but not limited to, a bond, letter of credit, joint deposit or other security in a form acceptable to the City, submitted by the property owner, a future buyer and/or a developer, to ensure planned infrastructure improvements will occur with each phase, if necessary, or when required by the City, affected local agency or the State (the formal submittal of a required guarantee typically occurs during the final master plan review process and/or development implementation); a statement of the applicant's intentions with regard to the future selling or leasing (if known at the time of preliminary master plan submittal) of all or portions of the proposed development (where a residential subdivision is proposed, the statement shall also include the applicant's intentions whether the applicant or others will construct the homes); and the relationship of pedestrian and bicycle connectivity and open space requirements to the proposed phasing;

11. Neighborhood Meeting Summary. The applicant shall submit a summary of issues raised at the neighborhood meeting as specified in Section 16.65.030(D);

12. A copy of all proposed and any existing covenants, conditions, and restrictions that may control development, if applicable; and

13. Annexation. A general schedule of proposed annexation consistent with the phasing plan, if applicable.

16.65.060 Preliminary master plan approval criteria.

The City shall make findings that all of the following criteria are satisfied when approving or approving with conditions, the preliminary master plan. The City shall make findings that not all of the criteria are not satisfied when denying an application:

A. Comprehensive Plan. All relevant provisions of the Comprehensive Plan are met;

B. Articles 16.2, 16.3 and 16.4 Standards. All of the land use, development, and design standards contained in Articles 16.2, 16.3 and 16.4 are met, except as may be modified in Section 16.65.040;

C. Open Space. A residential master plan shall contain a minimum of twenty (20) percent useable open space and a nonresidential master plan shall contain a minimum of ten (10) percent useable open space. A mixed-use master plan shall contain a percentage of open space based on the proportional amount of gross site area used for residential and nonresidential uses. This requirement may be satisfied by Section 16.63.130, if part of a planned unit development. Public open space shall be integral to the master plan. Plans shall emphasize public gathering places such as community centers, plazas, neighborhood parks, trails, and other publicly accessible spaces that integrate land use and transportation and contribute toward a sense of place. Where public or common private open space is designated, the following standards apply:

1. The open space area shall be shown on the final plan and recorded with the final plat or separate instrument, and

2. The open space shall be conveyed in accordance with one of the following methods:

a. By dedication to the City as publicly owned and maintained open space. Open space proposed for dedication to the City must be within the Happy Valley Parks Master Plan and capital improvement plan and acceptable to the City with regard to the size, shape, location, improvement, environmental condition (i.e., the applicant may be required to provide a level one environmental assessment), and budgetary and maintenance abilities, or

b. By leasing or conveying title (including beneficial ownership) to a corporation, home association or other legal entity;

D. Transportation System Capacity. With the addition of traffic from the proposed development, there is either sufficient capacity in the City's existing transportation system to accommodate the development proposed in all future phases or there will be adequate capacity by the time each phase of development is completed. Adopted State and/or local mobility standards, as applicable, shall be used to determine transportation system capacity;

E. Circulation and Parking. Circulation and parking have been designed to facilitate traffic safety and avoid congestion and to provide bicycle and pedestrian connectivity within the property and to nearby transit stops and public areas;

F. Public Utilities. Existing public utilities either have sufficient capacity to support the proposed development in all future phases adequately, or there will be adequate capacity available by the time each phase of development is completed;

G. Physical Features. Physical features, including, but not limited to slopes subject to the City's Steep Slopes Development Overlay, areas with susceptibility to flooding, significant clusters of trees and shrubs, riparian, wildlife, and wetland resources subject to the City's Natural Resource Overlay Zone, rock outcroppings and open spaces and areas of historic and/or archaeological significance will be preserved to the extent feasible;

H. Phasing Plan. The Phasing Plan demonstrates that the construction of required public facilities shall occur in a logical sequence, either in conjunction with, or prior to each phase, or that there are appropriate financial guarantees to ensure the phased public facilities construction will occur;

I. Compatibility with Adjacent Uses. The proposed preliminary master plan contains design elements including, but not limited to landscaping/screening, parking/traffic management, and multi-modal transportation that limit and/or mitigate identified conflicts between the site and adjacent uses;

J. Planned Mixed Use Areas. The following list provides a list of objectives of the master plan portion of this title and shall be utilized as general guidelines when evaluating master plans:

1. To provide for a desirable urban living and working environment with a compact urban form, and a mixture of uses,

2. To provide for the protection of natural resources, while meeting the employment and population targets set by the Metro Urban Growth Management Functional Plan for the City of Happy Valley,

3. To encourage developers to use a more creative and flexible approach in the development of commercial and residential areas within the City,

4. To provide a process that allows creativity and flexibility.

16.65.070 Administrative procedures.

A. Preliminary Master Plan—Conditions. The City may attach conditions to a preliminary master plan that the City deems necessary to ensure compliance with the approval criteria in Section 16.65.060 and all other applicable provisions of this Code. All conditions shall be satisfied prior to final master plan approval. Certain conditions may require an adequate financial guarantee in a form acceptable to the City to ensure compliance.

B. Time Limit. Within two years after the date of approval of the preliminary master plan, the applicant or the applicant's successor shall prepare and file with the City a final master plan, in conformance with Section 16.65.080.

C. Extension. The City may, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year provided that:

1. No changes have been made on the preliminary master plan as approved;

2. The applicant can show intent of applying for final master plan review within the one-year extension period;

3. There have been no material changes to the applicable elements of the City's Comprehensive Plan and Land Development Code provisions on which the approval was based; and

4. The extension request is made before expiration of the original approval period.

16.65.080 Final master plan submission requirements.

The final master plan shall illustrate the location of proposed buildings, streets, utilities, parking and landscape areas. The final master plan shall incorporate all conditions of approval. The final master plan application shall include:

A. A narrative that lists the conditions of approval, explains how each condition is met and references the applicable preliminary master plan maps and diagrams or plan sheets that required revision as a condition of approval;

B. The specific maps, diagrams, plan sheets or other documents referenced above that have been revised and/or demonstrate conformance with the preliminary master plan approval; and

C. Any other information that may be required by the City.

16.65.090 Final master plan approval criteria.

The City may approve the final master plan upon finding that the final plan conforms to the preliminary master plan and required conditions of approval. Minor changes to the approved preliminary master plan may be approved with the final master plan, when the approval body finds that the modification(s) is/are consistent with the criteria in subsections A through G below. Changes exceeding those in subsections A through G below, must be reviewed as major modifications under Section 16.66.030.

A. Increased residential densities (overall or reallocated between development phases) by no more than twenty (20) percent, provided such increase conforms to the Comprehensive Plan and underlying district;

B. Increase in lot coverage or impervious surface (overall or reallocated between development phases) by no more than fifteen (15) percent over that which is approved;

C. Reduction in open space or landscaping by no more than ten (10) percent provided the minimum open space requirements in Section 16.65.060(C) are still met;

D. Increase in overall automobile parking spaces by no more than ten (10) percent;

E. Land Use. No change in land use shall be permitted without a major modification to the concept plan;

F. Proposals to add or increase lot coverage within natural resource areas or areas subject to a potential hazard shall require a major modification to the concept plan;

G. Major changes in the location of buildings, proposed streets, parking lot configuration, utility easements, and landscaping or other site improvements shall require a major modification pursuant to Chapter 16.66. "Major" in this subsection means by more than one hundred (100) feet, or fifteen (15) percent, relative to setbacks; and

H. Other substantial modifications not listed in subsections A through G above, shall require approval of a major modification, in conformance with Chapter 16.66.

16.65.100 Final master plan—Effective date.

A. Effective Date.

1. Final master plan approval is effective on the date of recordation of the memorandum of final master plan approval.

2. The final master plan shall remain in effect for not more than seven years unless modified as specified in Section 16.65.120.

B. Once the final master plan effective date is established, all persons and parties, and their successors, heirs or assigns, who have or will have any interest in the real property within the final master plan boundary, shall be bound by the terms and conditions of approval of the final master plan and the provisions of this section. Notice of the final master plan effective date will be mailed to the applicant.

16.65.110 Final master plan—Phasing implementation.

A. A land division, land use review, design review, conditional use permit or variance application may not be submitted until the final master plan is final.

B. The approved final master plan shall be the basis evaluating all phases of proposed development, including a land division, land use review, design review, conditional use permit or variance application.

16.65.120 Final master plan—Modifications.

A. Proposed final master plan modifications shall be reviewed in accordance with Chapter 16.66 Modifications to Approved Plans and Conditions of Approval.

B. An applicant may also request an extension of the final master plan time limit beyond the maximum approved time limit of seven years. In no case shall the extension exceed fifteen (15)

years from the date of final master plan approval as specified in Section 16.65.100(A). An extension request shall be filed in writing with the City at least sixty (60) days prior to the expiration of the initial seven-year period or any subsequently approved extensions. The time line extension may be granted provided the applicant has made reasonable progress in the implementation of the final master plan and public services and facilities remain available. A request for a time extension shall be processed as minor modifications in accordance with Section 16.66.040.

Chapter 16.66 MODIFICATIONS TO APPROVED PLANS AND CONDITIONS OF APPROVAL

16.66.010 Purpose.

The purpose of this chapter is to provide an efficient process for modifying land use decisions and approved development plans, in recognition of the cost and complexity of land development and the need to conserve City resources. (Ord. 389 § 1(Exh. A), 2009)

16.66.020 Applicability.

A. This chapter applies to all development applications approved through the provisions of Article 16.6, including:

1. Land use review approvals;
2. Site design review approvals;
3. Subdivisions, partitions, and property line adjustments;
4. Conditional use permits;
5. Master planned developments; and
6. Conditions of approval on any of the above permit types.

B. This chapter does not apply to Comprehensive Plan amendments, land use district changes, text amendments, annexations, temporary use permits, or other permits not listed in subsection A.

16.66.030 Major modifications.

A. Major Modification Defined. A major modification(s) is required if one or more of the changes listed below is proposed:

1. A change in land use;
2. An increase in density by more than ten (10) percent, provided the resulting density does not exceed that allowed by the land use district;
3. A change in setbacks or lot coverage by more than ten (10) percent, provided the resulting setback or lot coverage does not exceed that allowed by the land use district;
4. A change in the type and/or location of access-ways, drives or parking areas affecting off-site traffic;
5. An increase in the floor area proposed for nonresidential use by more than fifteen (15) percent where previously specified;

6. A reduction of more than ten (10) percent of the area reserved for common open space; or

7. Change to a condition of approval, or a change similar to subsections (A)(1) through (6), that may have a detrimental impact on adjoining properties, as determined by the Planning Official.

B. Major Modification Applications—Approval Criteria. An applicant may request a major modification using a Type II or Type III-HO or -PC review procedure, as follows:

1. An application for a major application shall include the application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The Planning Official may require other relevant information, as necessary, to evaluate the request.

2. The application shall be subject to the same review procedure (Type II or III-HO), decision making body, and approval criteria used for the initial project approval, except that adding a conditional use to an approved project shall be reviewed using a Type III-HO procedure.

3. The scope of review shall be limited to the modification request. For example, a request to modify a parking lot shall require site design review only for the proposed parking lot and any changes to associated access, circulation, pathways, lighting, trees, and landscaping. Notice shall be provided in accordance with Chapter 16.61.

4. The decision-making body shall approve, deny, or approve with conditions an application for major modification based on written findings on the criteria.

5. An application for a major modification shall be reviewed under the criteria in effect on the date the application for the major modification is submitted.

16.66.040 Minor modifications.

A. Minor Modification. Any modification to a land use decision or approved development plan that is not within the description of a major modification as provided in Section 16.66.030(A), is deemed a minor modification.

B. Minor Modification Review Procedure. An application for a minor modification shall be reviewed by the Planning Official using a Type I or a Type II review procedure under Section 16.61.020 or 16.61.030. The Planning Official is responsible for determining the appropriate review procedure based on the following criteria:

1. Minor modifications that involve only clear and objective code standards may be reviewed using a Type I procedure;

2. Minor modifications that involve one or more discretionary standards shall be reviewed through Type II procedure; and

3. When the code is unclear on whether the application should be a Type I or Type II review, a Type II procedure shall be used.

C. Minor Modification Applications. An application for minor modification shall include an application form, filing fee and narrative, and a site plan using the same plan format as in the original approval. The Planning Official may require other relevant information, as necessary, to evaluate the request.

D. Minor Modification Approval Criteria. The Planning Official shall approve, deny, or approve with conditions an application for minor modification based on written findings that the modification is in compliance with all applicable requirements of the Development Code that applied to the original application for the development or use, and any applicable conditions of approval on the original decision.

Chapter 16.67 COMPREHENSIVE PLAN MAP, SPECIFIC AREA PLANS, LAND USE DISTRICT MAP AND TEXT AMENDMENTS

16.67.010 Purpose.

The purpose of this chapter is to provide standards and procedures for legislative and quasi-judicial amendments to the City's Comprehensive Plan and ancillary documents, specific area plans, the land use district map and this title (Land Development Code). These will be referred to as "map and text amendments." Amendments may be necessary from time to time to reflect changing community conditions, needs and desires, to correct mistakes, or to address changes in the law.

16.67.015 Initiation of a plan amendment.

A. Any change in the text, map or implementing ordinances of adopted Happy Valley land use regulations may be initiated by the City, any resident of the City, property owners or authorized agent. A change in the text may be initiated by as few as one person desiring a revision in the wording, scope, direction or organization of the plan. A change in the map which involves properties and/or district boundaries must be initiated by at least seventy-five (75) percent of the property owners or authorized agents who own or represent at least seventy-five (75) percent of the land area involved in the petition of change. The City may, for the purposes of revising or updating plans to comply with statewide goals, legal guidelines or other necessary criteria, initiate a change in the map or text of any plan and this Land Development Code at any time.

B. Amendments to the Land Development Code. An amendment to any chapter or section of this title for the purpose of adding or deleting words or subjects, broadening or narrowing scope, providing direction, clarification or improvement of the Development Code may be initiated by any person or persons, including the City itself. See Sections 16.67.020 and 16.67.030 of this chapter.

16.67.020 Legislative amendments.

Legislative amendments are policy decisions made by City Council. Except in the case of expedited annexation, they are reviewed using the Type IV procedure in Section 16.61.050 and shall conform to the Transportation Planning Rule provisions in Section 16.67.060, as applicable.

16.67.030 Quasi-judicial amendments.

A. Applicability of Quasi-Judicial Amendments. Quasi-judicial amendments are those that involve the application of adopted policy to a specific development application or Code revision, and not the adoption of new policy (i.e., through legislative decisions). Quasi-judicial Comprehensive Plan map/district map amendments shall follow the Type IV procedure, as governed by Section

16.61.040, using standards of approval in Section 16.67.030(C). The approval authority shall be as follows:

1. The Planning Commission shall make a recommendation to the City Council on an application for all other Comprehensive Plan map/land use district plan map amendments. The City Council shall decide such applications.

2. The City Council shall be the review authority for annexations that involve the legislative conversion of existing Clackamas County Comprehensive Plan designations/zoning districts to City Comprehensive Plan designation/zoning districts, per the provisions of Section 16.67.070.

B. Filing requirements.

1. In order to have a complete application for any proposed text amendment, the applicant shall submit the necessary application forms, and a narrative addressing applicable Comprehensive Plan objectives and policies, as well as the review criteria within Section 16.40.041.

2. In order to have a complete application for a proposed Comprehensive Plan map/zoning map or specific area map amendment, the applicant shall submit:

a. The necessary application forms, and a narrative addressing applicable Comprehensive Plan goals and policies, as well as the review criteria within Section 16.61.040;

b. A conceptual development plan illustrating a proposed street system, lot pattern, neighborhood circulation plan within a five hundred (500) foot radius of the subject site, and any natural resource or steep slopes areas;

c. A traffic study prepared by a professional, Oregon-licensed traffic engineer. If a master plan that requires a full traffic impact analysis is required for a Comprehensive Plan map amendment/land use district map, a subsequent master plan may satisfy this provision, as determined by the Planning Official.

C. Criteria for Quasi-Judicial Amendments. A recommendation or a decision to approve, approve with conditions or to deny an application for a quasi-judicial amendment shall be based on all of the following criteria:

1. Approval of the request is consistent with the Statewide Planning Goals, applicable Oregon Administrative Rules (OAR), Oregon Revised Statutes (ORS), and the Metro Functional Plan; and

2. Approval of the request is consistent with the applicable goals and policies of the City's Comprehensive Plan; and

3. The property and affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided in the planning period; and

4. The change is in the public interest with regard to neighborhood or community conditions, or corrects a mistake or inconsistency in the Comprehensive Plan or land use district map regarding the property which is the subject of the application; and

5. When an application includes a proposed Comprehensive Plan map amendment/land use district map amendment, the proposal shall be reviewed to determine whether it conforms to Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – TPR).

If a master plan that requires a full traffic impact analysis is required for a Comprehensive Plan map amendment/land use district map, a subsequent master plan may satisfy this provision, as determined by the Planning Official.

16.67.040 Conditions of approval for quasi-judicial amendments.

A quasi-judicial decision may be for denial, approval, or approval with conditions; conditions shall be based on applicable regulations and factual evidence in the record. Legislative amendments may only be approved or denied.

16.67.050 Record of amendments.

The records of the Comprehensive Plan and Land Development Code and all amendments to them shall be officially held within the office of the City Recorder. All amendments to text and/or official map shall be approved or rejected by the City Council and acknowledged by the mayor and attested by the City Recorder. Each action that changes a district boundary shall be included on a new official map and approved by the Mayor and attested by the City Recorder and filed in the office of the City Recorder and will be correct and binding in all cases.

The City Recorder shall maintain a record of amendments to the text of this Code and the land use districts map in a format convenient for public use.

16.67.060 Transportation planning rule compliance.

A. Review of Applications for Effect on Transportation Facilities. When a development application includes a proposed Comprehensive Plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060 (the Transportation Planning Rule – TPR) and the traffic impact study provisions of Section 16.61.090. "Significant" means the proposal would:

1. Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors). This would occur, for example, when a proposal causes future traffic to exceed the levels associated with a "collector" street classification, requiring a change in the classification to an "arterial" street, as identified by the City's Transportation System Plan ("TSP"); or

2. Change the standards implementing a functional classification system; or

3. As measured at the end of the planning period identified in the TSP, allow types or levels of land use that would result in levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or

4. Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP; or

5. Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP.

B. Amendments That Affect Transportation Facilities. Except as provided in subsection C, amendments to the Comprehensive Plan and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the function, capacity, and level of service of the facility (identified in the TSP). This shall be accomplished by one of the following:

1. Adopting measures that demonstrate that allowed land uses are consistent with the planned function of the transportation facility; or

2. Amending the TSP to provide transportation facilities, improvements, or services adequate to support the proposed land uses; such amendments shall include a funding plan to ensure the facility, improvement, or service will be provided by the end of the planning period; or

3. Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes of transportation; or

4. Amending the planned function, capacity or performance standards of the transportation facility; or

5. Providing other measures as a condition of development or through a development agreement or similar funding method, specifying when such measures will be provided.

C. Exceptions. Amendments to the Comprehensive Plan or land use regulations with a significant effect on a transportation facility, where the facility is already performing below the minimum acceptable performance standard identified in the TSP, may be approved when all of the following criteria are met:

1. The amendment does not include property located in an interchange area, as defined under applicable law;

2. The currently planned facilities, improvements or services are not adequate to achieve the standard;

3. Development resulting from the amendment will, at a minimum, mitigate the impacts of the amendment in a manner that avoids further degradation to the performance of the facility by the time of the development; and

4. The road authority provides a written statement that the proposed funding and timing for the proposed development mitigation are sufficient to avoid further degradation to the facility.

16.67.070 Annexations.

A. Except as provided in subsection B of this section, when the City Council approves the annexation of unincorporated territory from using the expedited annexation process, the ordinance approving the annexation shall amend the City's Comprehensive Plan map/zoning map to reflect the conversion from the County designation/zone to a corresponding City designation/zone, as shown in Table 16.67.070-1 below. For non-expedited annexations, a concurrent Comprehensive Plan/Zoning Map Amendment is required to be filed as a Type III-PC decision consistent with the requirements of Section 16.61.040.

Table 16.67.070-1 Land Designation Conversion Table

Clackamas County Zone	City of Happy Valley Zone
Urban/Rural Residential	
R-2.5	SFA
R-5	R-5
R-7	R-7
R-8.5	R-8.5
R-10	R-10
R-15	R-15
R-20	R-20
MR-1	MUR-M1
MR-2	MUR-M2
HDR	MUR-M3
RA-2	R-15
FU-10	FU-10*
RRFF-5	RRFF-5**
FF-10	FF-10**
Natural Resources	
EFU	EFU**
Commercial	
NC	MUE
C-2	MCC
C-3	MCC
RCC	MCC
RCO	MUC
OC	CCC
RCHD	MUR-M2
RTL	MUC
OA	MUC
PMU-6	RCMU
Industrial	
LI	IC
GI	IC
BP	EC

Special Districts	
OSM	IPU
Sunnyside Village	
VR-4/5	R-5
VR-5/7	R-5
VCS	IPU
VA	MUR-M1
VO	VO
VTH	VTH

* Annexation of this zoning district (outside of properties annexed from the former City of Damascus) would require the creation of a new Comprehensive Plan designation/zoning district within the City that would be determined by the Planning Official based on surrounding Comprehensive Plan designations/zoning districts and a Transportation Planning Rule-compliant Traffic Impact Analysis.

** Clackamas County rural residential and farm zones that are annexed within the City of Happy Valley retain these designations/districts, which are administered by the City via the applicable auspices (for example, yard setbacks) of the Clackamas County ZDO until receiving urban zoning per an adopted urban Comprehensive Plan.

B. When an unincorporated territory within the East Happy Valley Comprehensive Plan area, Aldridge Road Comprehensive Plan area, or the Rock Creek Mixed Employment Comprehensive Plan area is annexed to the City, the ordinance approving the annexation shall apply the applicable zoning designation in the Happy Valley Comprehensive Plan pursuant to the applicable requirements of the Land Development Code.

C. For any proposed annexation to the City, application shall be made directly to the City of Happy Valley on the appropriate forms and accompanied by the required fee, if any. Upon receipt of the form, the City shall schedule a public hearing before the Planning Commission (non-expedited) or City Council (expedited). The City may utilize any lawful annexation process under State, regional or local law, including the expedited annexation process established in the Metro Code. An expedited annexation process shall be sent directly to the City Council for review. Expedited annexations shall be processed as an ordinance pursuant to the City of Happy Valley Charter.

Chapter 16.68 CODE INTERPRETATIONS

16.68.010 Purpose.

Some terms or phrases within the Code may have two or more reasonable meanings. This section provides a process for resolving differences in the interpretation of the Code text.

A. In interpreting and applying the provisions of this title, they shall be construed as the minimum requirement for the promotion of the public safety, health, and peace and general welfare. It is not intended by this title to interfere with or annul any other covenants or agreements between private

parties. However, from the effective date of this Land Development Code, all divisions and development of land shall conform to this title. When this title imposes a greater restriction upon the use of buildings or premises or upon the height of the buildings, or requires larger space than is imposed or required by other codes, ordinances, rules, regulations, covenants or agreements, the provisions of this title shall govern.

B. No specific interpretation of this title where clear or objective standards may not exist, or any other discretionary conditions or requirements authorized by this title shall be applied either individually or collectively to deny any application which otherwise meets all stated standards contained in this title. Neither shall any discretionary conditions or requirements be applied to either individually or collectively provide an adverse or negative impact on cost and development time nor to prevent the maximum potential, residential densities or housing types which are permitted by the Comprehensive Plan or this title.

16.68.020 Code interpretation procedure.

A. Requests. A request for a Code interpretation shall be made by application to the Planning Official.

B. Decision to Issue Interpretation. The Planning Official shall advise the person making the inquiry in writing within fourteen (14) days after the request is made whether the Planning Official will make the interpretation.

C. Written Interpretation. If the City decides to issue an interpretation, it shall require the applicable fee and will be in writing and mailed or delivered to the person requesting the interpretation and any other person who specifically requested the interpretation. The written interpretation shall be issued within fourteen (14) days from the date of notification that an interpretation will be made (subsection B). The decision shall become effective fourteen (14) days later.

D. Type I Procedure. Code interpretations shall be made using a Type I procedure under Section 16.61.020.

E. Interpretations on File. The City shall keep on file a record of all Code interpretations.

Chapter 16.69 MISCELLANEOUS PERMITS

16.69.010 Temporary use permits.

Temporary uses are characterized by their short-term or seasonal nature and by the fact that permanent improvements are not made to the site. Temporary uses include, but are not limited to: construction trailers, leasing offices, temporary carnivals and fairs, temporary art and music festivals, parking lot sales, retail warehouse sales, and seasonal sales such as Christmas tree sales and vegetable stands. Mobile food/beverage units are subject to Section 16.69.030. Six types of temporary uses require permit approval:

A. Seasonal and Special Events. These types of uses occur only once in a calendar year and for a period no longer than ninety (90) days. Using the Type I review process, the City shall approve, approve with conditions or deny a temporary use permit based on findings that all of the following criteria are satisfied:

1. The use is permitted in the underlying land use district and does not violate any conditions of approval for the property (e.g., prior development permit approval);

2. The applicant has proof of the property owner's permission to place the use on his/her property;

3. No parking will be utilized by customers and employees of the temporary use which is needed by the property owner to meet his or her minimum parking requirements;

4. The use provides adequate vision clearance, and shall not obstruct pedestrian access on public streets;

5. Ingress and egress are safe and adequate when combined with the other uses of the property;

6. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;

7. The use is adequately served by sewer or septic system and water, if applicable (the applicant shall be responsible for obtaining any related permits); and

8. An extension of sixty (60) days may be obtained if determined appropriate by the City Administrator.

B. Short-Term Outdoor Special Events. These types of events occur for a period no longer than three days and nights. Events that occur annually within the City limits may be reviewed as a conditional use in accordance with Chapter 16.64 of this title. Other events shall be reviewed administratively. The City shall approve, approve with conditions or deny a short term outdoor special event temporary use permit based on findings that all of the following criteria are satisfied:

1. The use is held primarily outdoors and will continue for no longer than seventy-two (72) consecutive hours, plus a reasonable time period for setting up before the event, and cleaning up after the event;

2. The conditional use permit application does not violate any conditions of approval for the property (e.g., prior development permit approval);

3. Adequate water and sanitary facilities are provided;

4. Adequate refuse storage and disposal facilities are provided;

5. Adequate food services are provided;

6. Adequate emergency medical facilities and communication systems are provided;

7. Adequate fire protection is provided;

8. Adequate security personnel are provided; and

9. Adequate pedestrian, bicycle and vehicle access are provided.

C. Temporary Sales Office (Non-Model Home). Using the Type I review process, the City may approve, approve with conditions or deny an application for the use of any real property within the City as a temporary sales office or offices for the purpose of facilitating the sale of real property, in any subdivision or tract of land within the City, but for no other purpose, based on the following criteria:

1. Temporary Sales Office.

a. The temporary sales office shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold;

b. The property to be used for a temporary sales office shall not be permanently improved for that purpose;

c. The length of time that the temporary building will be used does not exceed twelve (12) months, and if a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit;

d. The temporary sales office is required to conform to the setbacks of the underlying development district, shall provide skirting, and shall obtain all necessary permits, including building, electrical and plumbing, as applicable; and

e. The temporary sales office is required to provide a minimum of two temporary off-street parking spaces, to be constructed of compacted gravel or similar pervious surface, or an impervious surface, not subject to stormwater management provisions for stormwater retention/detention/water quality for the period of the temporary use.

D. Temporary Building (Commercial/ Industrial). Using the Type I review process, the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any real commercial or industrial property within the City as a temporary commercial or industrial office or space associated with the primary use on the property, but for no other purpose, based on the following criteria:

1. The temporary trailer or building shall be located within the boundaries of the parcel of land on which it is located;

2. The primary use on the property to be used for a temporary trailer is already developed;

3. Ingress and egress are safe and adequate when combined with the other uses of the property;

4. There is adequate parking for the customers or users of the temporary use pursuant to applicable parking requirements;

5. The use will not result in vehicular congestion on streets;

6. The use will pose no hazard to pedestrians in the area of the use;

7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;

8. The building complies with applicable building codes;

9. The use can be adequately served by sewer and water, if necessary. (The applicant shall be responsible for obtaining any related permits);

10. The length of time that the temporary building will be used does not exceed twelve (12) months, and if a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit;

11. Adequate landscaping, buffering or other method to assure the structure is visually consistent with conditions surrounding the site; and

12. The temporary building is required to provide a minimum of two temporary off-street parking spaces, to be constructed of compacted gravel or similar pervious surface, or an

impervious surface, not subject to stormwater management provisions for stormwater retention/detention/water quality for the period of the temporary use.

E. Temporary Building (Construction Site). Using the administrative review process, the City may approve, approve with conditions or deny an application for a temporary trailer or prefabricated building for use on any construction site within the City based on following criteria:

1. The temporary construction site building shall be located within the boundaries of the subdivision or tract of land in which the real property is to be sold;

2. The property to be used for a temporary construction site building shall not be permanently improved for that purpose;

3. The length of time that the temporary construction site building will be used does not exceed twelve (12) months, and if a temporary building exceeds this time frame, the applicant shall be required to remove the building, or renew the temporary use permit;

4. The temporary construction site building is required to conform to the setbacks of the underlying development district; shall provide skirting; and shall obtain all necessary permits, including building, electrical and plumbing, as applicable; and

5. The temporary construction site building is required to provide a minimum of two temporary off-street parking spaces, to be constructed of compacted gravel or similar pervious surface, or an impervious surface.

F. Temporary Exterior Storage. Using the administrative review process, the Planning Official may approve, approve with conditions or deny an application for temporary exterior storage of structures, equipment or materials based on following criteria:

1. The property to be used for temporary storage shall not be permanently improved for that purpose;

2. The length of time that the site will be used for storage does not exceed six months (a single six-month extension may be granted by the Planning Official by submittal of a time extension application). If the temporary use exceeds this time frame, the applicant shall be required to remove the stored materials, or renew the temporary use permit;

3. The areas used for storage are required to conform to the setbacks of the underlying development district;

4. The areas used for storage shall be screened from view from public streets;

5. No on-site sales will be conducted;

6. Dust and erosion control measures have been taken to ensure there will be no impact to air and water quality from dust and mud on the site or on adjacent streets from vehicles entering and leaving the site. During the length of the project, the site must be enclosed or protected in a manner to prevent on-site erosion and to prevent sediment from leaving the site;

7. The use does not create adverse off-site impacts including vehicle traffic, noise, odors, vibrations, glare or lights that affect an adjoining use in a manner which other uses allowed outright in the district do not affect the adjoining use;

8. Temporary gravel parking lots may be constructed that are not subject to stormwater management provisions for stormwater retention/detention/water quality for the period of the temporary use. At the end of the temporary use, the gravel shall be removed and the site must be prepared and seeded with a mixture of one hundred (100) percent perennial rye grass to

create a low maintenance vegetative groundcover. An exception to this requirement is sites that have compacted gravel or paving prior to the start of the project. In these cases, the portion of the site that has compacted gravel or paving may remain in compacted gravel or paving. All other portions of the site must be seeded as provided above.

16.69.020 Home occupation permits.

A. Purpose. The purpose of this section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. In addition, the purpose of this section is to establish approval criteria and standards to ensure that home occupations are conducted as lawful uses which are subordinate to the residential use of the property and are conducted in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents. More than one business activity constituting two or more home offices shall be allowed on one property only if the multiple home offices meet all required limitations associated with outside volunteers or employ-ees; clients or customers per day; and, the combined floor space of the business activities does not exceed the limitation of space imposed in subsection (B)(6)(g). Each business activity shall also have separate City business license.

B. Exemptions. Exemptions from the provisions of this chapter are:

1. Short-term personal or fundraising sales (such as a garage sale or the sale of an individual personal item, fruit, drink or dessert sales by individuals, including minors, or similar sales) from a residence. The maximum duration of garage/yard sales is three consecutive days and/or ten (10) days total in a calendar year;

2. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises;

3. Hobbies which do not result in payment to those engaged in such activity;

4. Proven nonconforming home occupations as pursuant to Chapter 16.72 (Nonconforming Uses, Structures and Lots);

5. Residential care homes that are protected by the Federal Fair Housing Act, and may have characteristics of a home occupation permit are exempt from the home occupation permit process due to State and Federal law;

6. Home offices that are undertaken only by the principal occupant(s) of a residential property that include the following characteristics:

a. No outside volunteers or employees to be engaged in the business activity other than the persons principally residing on the premises,

b. No exterior signs which identify the property as a business location,

c. No more than three clients or customers to visit the premises per day for any reason,

d. No exterior storage of materials,

e. No deliveries shall be made to the residence other than by traditional small-scale means normally found in a residential area, such as the United States Postal Service,

UPS, Federal Express, messenger services, etc. There shall be no commercial vehicle deliveries during the hours of 10:00 p.m. to 7:00 a.m.,

f. No offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the operation,

g. No utilization of more than fifty (50) percent of the combined residence and accessory structure gross floor area. The indoor storage of materials or products shall not exceed the limitations imposed by the provisions of the building, fire, health and housing codes,

h. No change in the most current Oregon Residential Specialty Code occupancy classification of the dwelling unit or any portion of the dwelling unit, including the garage,

i. No home office shall require any on- or off-street parking other than that normally required for a residence. In addition, no commercial vehicles (as defined in Section 16.12.030) of any kind shall be utilized in conjunction with a home office;

7. Licensed Daycare Providers. A licensed daycare provider must meet the definition as detailed in Section 16.12.130. Licensed daycare providers are allowed the following home occupation exceptions:

a. Home-occupation compliant signage may be placed in the front yard setback,

b. Home-occupation business hours are unlimited,

c. Home-occupation daily customer/client visits are limited to that provided by the licensed daycare providers Oregon Revised Statute license limitations, and

d. Any other exception as mandated under applicable federal or state law.

Any home office that exceeds the parameters of these provisions, as determined by the Planning Official based on answers to the home occupation permit questionnaire, site visits, or other evidence, shall be required to apply for a home occupation permit.

C. Nonconforming Uses. Ongoing home occupations may be granted nonconforming status provided that they were:

1. Permitted under County authority prior to annexation to the City and have been in continuous operation since initial approval;

2. Permitted under City authority prior to 1983 and have since been in continuous operation.

D. Governing Regulations. Nonconforming home occupations will be regulated as a nonconforming situation, pursuant to the following:

1. A nonconforming situation may continue until the use is expanded or altered so as to increase the level of noncompliance with this title;

2. The burden of proving a home occupation’s nonconforming status rests with the property owner or tenant;

3. Violations. Home occupations without City or County approval which cannot prove nonconforming status shall be considered in violation of this chapter and shall cease until the appropriate approvals have been granted.

E. Prohibited Home Occupations. The following uses are not allowed as home occupations:

1. Auto-body repair and painting;

2. On-going mechanical repair conducted outside of an entirely enclosed building;

3. Junk and salvage operations;

4. Storage and/or sale of fireworks;

5. Ambulance service;

6. Animal hospital or veterinary services;

7. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed;

8. Marijuana production, processing, wholesaling and retailing.

F. Home Occupations Defined. A separate home occupation permit and/or fee are required for each property on which a home occupation is undertaken. For the purposes of this section, "home" refers to the residential location, including a single-family dwelling unit, accessory dwelling unit, garage, accessory structure, multifamily unit, condominium unit, etc. In addition to the general criteria outlined in subsection E of this section, home occupations shall observe the following additional standards.

Property on which a home occupation is located may show evidence that a business is being conducted from the premises. Therefore, the following is allowed for home occupations:

1. One non-illuminated sign, not exceeding one and one-half square feet, which shall be attached to the residence or accessory structure or placed in a window;

2. No more than three outside volunteers or employees who are not a principal resident of the premises;

3. No more than six daily customers or clients. Customers and clients may not visit the business between the hours of 10:00 p.m. and 8:00 a.m. and shall not generate excessive traffic or monopolize on-street parking (the generation of excessive traffic or monopolization of on-street parking shall be at the sole discretion of the Planning Official or designee). For properties over one acre in size, with the provision of adequately screened off-street parking, the number of daily customers may be increased to no more than ten (10) daily customers or clients;

4. For residential properties under two acres in size, storage of materials, goods, and equipment, including no more than two commercial vehicles associated with the home occupation and utilized for commercial purposes, shall be screened entirely from view from any adjacent public right-of-way. Storage shall not exceed twenty-five (25) percent of the total lot area and shall not occur within the front yard setback. For residential properties over two acres in size, storage of materials, goods, and equipment, including no more than four commercial vehicles associated with the Class B home occupation and utilized for commercial purposes, shall be screened entirely from view from any adjacent public right-of-way;

5. Off-Street Parking. Two on-site parking spaces shall be provided for the home occupation in addition to those spaces already required for the dwelling. No more than two customer vehicles may visit the home occupation at any one time and these must use the legal,

designated parking spaces outside. For properties over one acre in size, with the provision of adequately screened off-street parking, the number of customer vehicles may be increased to no more than five vehicles at any one time;

6. Kennels, animal boarding, and commercial animal breeding activities, though the minimum land area (either by lease or ownership) associated with the Class B home occupation that includes these uses shall equal one acre of land, and the total number of animals boarded at any one time shall not exceed twenty-five (25);

7. Change of the Oregon Residential Specialty occupancy classification of the dwelling unit or any portion of the dwelling unit, including the garage. For example, in the installation of a commercial kitchen or commercial appliances.

G. Permit Procedures for Home Occupations.

1. Home Occupation Permit. A home occupation permit will be processed using the Type III-HO quasi-judicial procedure, pursuant to the requirements of Chapter 16.61 (Types of Review Procedures).

2. Conditions of Approval. The City may impose conditions of approval on a home occupation permit to ensure compliance with the requirements of this chapter. These conditions may include, but are not limited to, the following:

a. Limiting the hours, days, place and manner of operation;

b. Requiring site and building design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;

c. Requiring additional building setbacks, and increased lot area, depth or width;

d. Limiting the building area and outdoor storage used by the home occupation and restricting the location of the use on the site in relationship to adjoining uses;

e. Designating the size, number, location and design of vehicle access points;

f. Requiring street right-of-way to be free at all times of vehicles associated with the home occupation;

g. Requiring landscaping, buffering and/or screening, of the home occupation from adjoining uses and establishing standards for the continued maintenance of these improvements;

h. Requiring storm drainage improvements, and surfacing of parking and loading areas;

i. Limiting the extent and type of interior or exterior building remodeling necessary to accommodate the home occupation;

j. Limiting or setting standards for the location and intensity of outdoor lighting;

k. Requiring and designating the size, height and location of fences and materials used for their construction;

l. Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;

m. Limiting the type and number of vehicles or equipment to be parked or stored on the site;

n. Any other limitations which the review authority considers to be necessary or desirable to make the use comply with this section; and

o. Any limitations or conditions imposed by the City's service providers, including, but not limited to, Sunrise Water Authority, Clackamas Fire District #1, CCSD#1, CCSD#5, etc.

H. Revocation and Expiration of Home Occupation Permits. Grounds for Revocation. The Planning Official or designee may:

1. Revoke a home occupation approval if the conditions of approval have not been or are not being complied with and the home occupation is otherwise being conducted in a manner contrary to this chapter.

2. The Planning Official or designee shall approve the use as it exists, revoke the home occupation permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this section after reviewing a complaint. Complaints may be originated by the City of Happy Valley or the public. Complaints from the public shall clearly state the objection to the home occupation, such as:

a. Generation of excessive traffic;

b. Exclusive use of on-street parking spaces;

c. Other offensive activities not compatible with a residential neighborhood.

3. Cessation of Home Occupation Pending Review. If it is determined by the Planning Official or designee in exercise of reasonable discretion, that the home occupation in question will affect public health and safety, the use may be ordered to cease pending Planning Commission review and/or exhaustion of all appeals.

4. Waiting Period for Reapplication. When a home occupation permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a home occupation on the subject parcel will be considered.

5. Invalidation of Permit. A home occupation permit shall become invalid if the applicant moves his or her residence.

I. Business License Required. Besides meeting the requirements of this section, the business or commercial use of any home for a home office or home occupation must be supported by an active City business license. No business license will be issued for a home office or home occupation until:

1. The person wishing to engage in a home office answers the questions within the home occupation permit questionnaire and is determined to be exempt from the home occupation permit process; or

2. The applicant for a home occupation has been approved and the application certifies that the home occupation will be operated in strict compliance with the provisions of this chapter and the conditions of approval.

16.69.030 Mobile food unit sites.

A. Purpose. Mobile food units, which are defined in OAR 333-150-0000, can provide opportunities to enliven under-utilized parking lots, allow individual entrepreneurship at a small scale, and provide unique eating establishments for the public. The purpose of this section is to

allow for mobile food unit sites or "cart pods" where mobile food units (carts) can be parked on a long term basis. As with temporary uses, permanent site improvements may not be required; however, the standards and permit processes of this section are intended to ensure that mobile food unit sites are conducted as lawful uses and in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents.

B. Exemptions. The following are exempt from provisions of this section:

1. Locations where mobile food units stop for less than two hours in any twenty-four (24) hour period.

2. Locations where mobile food units are stored when not in operation are exempt from the provisions of this section; however, the storage of commercial vehicles may be subject to other requirements of the LDC.

3. Mobile food units and other mobile vending units that are operated as part of an approved farmer's market.

C. Mobile Food Unit Site Standards. The following standards apply to mobile food unit sites.

1. Zoning. Mobile food unit sites are not permitted in residential zones, but are permitted, as restricted, within the commercial and industrial district use tables found within this title.

2. Accessory Items and Structures. Trash receptacles for customer use shall be maintained no more than ten (10) feet from the mobile food units. Portable accessory items, such as picnic tables, are permitted. With Type II approval, new accessory structures may be constructed, as follows:

a. A maximum of two restroom structures, provided that the combined square footage does not exceed two hundred (200);

b. A maximum of two storage buildings, provided that the combined square footage does not exceed two hundred (200);

c. One trash enclosure; and

d. Outdoor seating areas, which may have roofs, floors, and railings, but no walls (e.g., decks, picnic shelters), provided that the square footage does not exceed two hundred (200) square feet per mobile vending unit and that no single structure exceeds two hundred (200) square feet.

3. Signs. Signs are restricted to "A-Frame" signs only, permitted pursuant to Chapter 16.45.

4. Minimum Setbacks and Separation Distance. All mobile food units on the site shall be located a minimum of:

a. Five feet from any structure or other mobile food unit;

b. Ten (10) feet from any front lot line; and

c. Five feet from any side or rear lot line, except if such lot line abuts a residential district the minimum setback shall be twenty (20) feet.

5. Screening. If the mobile food unit site is located less than twenty (20) feet from a residential zoning district, the residential property shall be screened from the mobile food unit site, which may be a portion of a property including the mobile food unit, seating, queuing, etc., abutting the residential zoning district and may not necessarily extend to the shared property line. Required screening:

a. May be provided by an existing, continuous, sight-obscuring structure, fence, or hedge;

b. If new, shall be a continuous, sight-obscuring vegetative screen; or if fencing is utilized as screening, shall be stained cedar or ornate metal. Chain-link fencing with slats shall not qualify as acceptable screening material; and

c. Shall have a minimum height of six feet.

6. Setback from Vehicular and Pedestrian Use Areas. Windows and doors used for service to customers shall be located a minimum of ten (10) feet from loading areas, driveways, on-site circulation drives, and parking lot aisles, and a minimum of five feet from bicycle parking spaces and walkways.

7. Obstruction of Vehicular and Pedestrian Use Areas and Landscape Areas. No mobile food unit or associated element, such as aboveground power cords, seating areas, trash receptacles, signs, and customer queuing areas, shall occupy bicycle parking spaces, loading areas, or walkways. Mobile vending units shall not occupy landscaping areas approved as part of a prior design review or other land use application. However, occupying existing on-site automobile parking spaces is permitted, provided that such spaces are not simultaneously used for parking or required to meet minimum parking requirements on the site.

8. Surfacing. All mobile food units shall be placed on an existing hard-surfaced area, and any associated parking, loading, and maneuvering areas for vehicles shall be on existing hard-surfaced areas, unless a permeable parking, loading, or maneuvering area surface was authorized as part of a previously implemented design review approval for the site.

9. Driveway Access. No new or modified driveway access is permitted.

10. Intersection Sight Distance and Roadside Clear Zones. The mobile food unit and any attachments or accessory items shall comply with the intersection sight distance and roadside clear zone standards of the City of Happy Valley Engineering Standards.

11. Lighting. Outdoor lighting shall be required per this title if not already provided by an existing use.

12. Utilities. To the extent that utilities are desired by the applicant or required by applicable regulations, mobile vending units shall have self-contained utilities, or if on-site utility connections are proposed, such utilities shall be installed underground, except where prohibited by the utility district or company. Notwithstanding this requirement:

a. If allowed by the utility district or company and any applicable Oregon Specialty Code, aboveground utility connections are permitted, when a mobile vending unit will remain on the subject property for no more than one hundred twenty (120) days in a calendar year. For the purpose of this exception:

i. If a mobile vending unit is replaced by another, the number of days shall be calculated by adding the days spent on-site by each unit.

ii. If a mobile vending unit spends any portion of a day on the subject property, it shall count as one day.

b. If allowed by the utility district or company and the Oregon Electrical Specialty Code, aboveground power cords are permitted to connect the mobile vending unit to an approved electricity source.

c. If allowed by the utility district or company and the Oregon Plumbing Specialty Code, aboveground hoses are permitted to connect the mobile vending unit to an approved water source.

13. Sanitation Facilities. For four carts or less, portable toilets and hand-washing facilities are permitted but may not drain to the surface. For five carts or more, utilization of existing restrooms within an existing building may be utilized, or if new, permanent restrooms shall be constructed.

14. Sewage Disposal. Subsurface sewage disposal is prohibited.

15. Central Pavilions. Subject to subsection (E)(3), outdoor seating areas, which may have roofs, floors, walls, railings, etc. are permitted, provided that the combined square footage does not exceed two hundred (200) square feet per mobile vending unit and that no single structure exceeds five thousand (5,000) square feet in size.

16. Vendor Parking. For any mobile food unit site requiring a Type II Design Review approval, vendor parking shall be provided in addition to the off-street parking requirements of Section 16.43.030 (Automobile parking standards) at the rate of one parking stall per mobile food unit. Vendor parking may be satisfied by the provision of off-site, shared parking agreements.

D. Mobile Food Units. The following standards apply to each mobile food unit on the site.

1. Attachments. Attachments to the mobile vending unit, such as awnings or canopies, are permitted only if they are supported entirely by the unit and do not touch the ground. Neither the mobile food unit nor any item relating to the unit shall lean against or hang from any structure or utility pole. No structure shall be attached to the mobile food unit.

2. Accessory Storage. Except as specifically allowed by subsection C, items relating to the mobile food unit shall be stored in, on, or under the unit.

3. Interior Seating or Vending. Customer seating or vending inside the mobile food unit is prohibited.

4. Skirting. Skirting shall be placed around the perimeter of the mobile vending unit.

5. Drive-Thru Service. A mobile food unit may include drive-thru service only if drive-thru service is allowed as a primary or accessory use in the zoning district in which the subject property is located. Drive-thru service shall be subject to the related provisions of this title.

6. Other Licenses Required. Besides meeting the requirements of this section, the operator of a mobile food unit must have an active City business license and must comply with the permit requirements of Clackamas County Environmental Health Department.

E. Permit Procedures. Mobile food unit site permits will be processed as follows:

1. Type I. Up to two carts on one site with no accessory structures other than trashcans and portable accessory items, such as picnic tables may be reviewed in accordance with Section 16.61.020 Type I procedure (administrative).

2. Type II. Up to four carts on one site and/or new accessory structures constructed in accordance with subsection (C)(2) of this section may be reviewed in accordance with Section 16.61.035 Type II-DR procedure (administrative).

3. Five or more carts on one site and/or improvements or new accessory structures other than those permitted through Type I or Type II approval requires design review approval in

accordance with Section 16.61.045 Type III-DR procedure (quasi-judicial). New structures greater than two hundred (200) square feet in size shall be subject to the Happy Valley Style Appendix "B."

F. Submittal Requirements. An application for a mobile food unit site permit shall include the following:

1. A completed application form on a form provided by the Planning Official;

2. Information sufficient to address the standards in subsection C; and

3. A site plan of the subject property drawn to scale and including:

a. The lot lines,

b. The location of existing structures,

c. The proposed boundaries of the mobile food unit site. Within the boundaries of the mobile food unit site, the location of all mobile food units, seating areas, and any accessory items or structures shall be shown,

d. The proposed distance between the mobile vending unit site and adjacent lot lines, as well as the proposed separation distance between units and between units and other on-site structures,

e. The type and location of any proposed on-site utility connections for mobile food units,

f. The location of existing loading areas, driveways, on-site circulation drives, parking lot aisles, bicycle and automobile parking spaces, and walkways,

g. The orientation of service windows and doors on the mobile food units and location of queuing areas,

h. The location of existing landscaping, and

i. The dimensions, height, and location of proposed A-Frame signs.

G. Conditions of Approval. The approval body may impose conditions upon the approval of a mobile food unit site permit to ensure compliance with the requirements of this chapter. These conditions may include, but are not limited to, the following:

1. Further limiting the hours, days, place and manner of operation;

2. Requiring site and building design features which minimize environmental impacts such as noise, glare, and odor;

3. Requiring additional building setbacks;

4. Further limiting the building area and outdoor storage used by the mobile food unit site and restricting the location of the use on the site in relationship to adjoining uses;

5. Designating the size, number, location and design of vehicle access points;

6. Requiring landscaping, buffering and/or screening, of the mobile food unit site from adjoining uses and establishing standards for the continued maintenance of these improvements;

7. Requiring storm drainage improvements, and surfacing of parking and loading areas;

8. Limiting or setting standards for the location and intensity of outdoor lighting;

9. Requiring and designating the size, height and location of fences and materials used for their construction;

10. Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;

11. Limiting the type and number of vehicles or equipment to be parked or stored on the site;

12. Any other limitations which the staff considers to be necessary or desirable to make the use comply with this section; and

13. Any limitations or conditions imposed by the City's service providers, including but not limited to Sunrise Water Authority, Clackamas River Water, Clackamas Fire District #1, CCSD#1, CCSD#5, etc.

H. Approval Period and Time Extension. Unless listed as a permitted use in the underlying zone, a mobile food unit site approval is valid for four years from the date of the final written decision. If the City's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented, or the approval will become void. "Implemented" means all necessary development permits shall be obtained and maintained for the approved development. At the end of any four-year period, the applicant may apply for another four-year permit by filing a new, Type II application.

I. Grounds for Revocation. The Planning Official or designee may:

1. Revoke a mobile food unit site permit approval if the conditions of approval have not been or are not being complied with and the mobile food unit site is otherwise being conducted in a manner contrary to this chapter.

2. The Planning Official or designee shall approve the use as it exists, revoke the mobile food unit site permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this section after reviewing a complaint. Complaints may be originated by the City of Happy Valley or the public. Complaints from the public shall clearly state the objection to the mobile food unit site, such as:

   a. Generation of excessive traffic;

   b. Generation of excessive noise or litter;

   c. Other offensive activities not compatible with the surrounding area.

3. Waiting Period for Reapplication. When a mobile food unit site permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a mobile food unit site on the subject parcel will be considered.

Happy Valley Municipal Code: Land Development Code Effective December 31, 2022 – January 4, 2023

ARTICLE 16.7 EXCEPTION TO CODE STANDARDS

Chapter 16.71 VARIANCES

16.71.010 Purpose.

This chapter provides standards and procedures for variances, which are modifications to land use or development standards that are not otherwise permitted elsewhere in this title as exceptions to Code standards. This title cannot provide standards to fit every potential development situation. The City's varied geography, and complexities of land development, require flexibility. This chapter provides that flexibility, while maintaining the purposes and intent of the title. The variance procedures provide relief from specific Code provisions when they have the unintended effect of preventing reasonable development in conformance with all other codes. The variance procedures are intended to provide flexibility while ensuring that the purpose of each development standard is met.

16.71.020 Applicability and application requirements.

A. Exceptions and Modifications versus Variances. A Code standard or approval criterion ("Code section") may be modified without approval of a variance if the applicable Code section expressly allows exceptions or modifications. If the Code section does not expressly provide for exceptions or modifications, then a variance is required to modify that Code section and the provisions of Chapter 16.71 apply. Except that a variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a land use district.

B. Combining Variances With Other Approvals—Permit Approvals by Other Agencies. Variance requests may be combined with and reviewed concurrently by the City approval body with other land use and development applications (e.g., development review, site design review, subdivision, conditional use, etc.), however, some variances may be subject to approval by other permitting agencies, such as ODOT in the case of State Highway access.

C. Types of Variances. There are three types of variances (Class A, B, or C). The type of variance required depends on the extent of the variance request and the discretion involved in the decision-making process. Regulations described in the following sections of this chapter pertaining to applicability of the type of variance should be considered a guide only. Ultimately, it is at the discretion of the Planning Official to determine whether a variance proposal is processed as a Class A, B, or C.

D. Application. The variance application shall conform to the requirements for Type I, II, or II applications (Chapter 16.61), as applicable. In addition, the applicant shall provide a narrative or letter explaining the reason for his or her request, alternatives considered, how the stated variance criteria are satisfied, and why the subject standard cannot be met without the variance.

E. Land Divisions. The variance standards of this chapter apply to individual platted and recorded lots only. However, the lot area and dimensions of a single lot may be modified by up to five percent with a Class B variance. The Class C variance procedure may be used to modify a standard for three or fewer lots, including lots yet to be created through a partition process.

16.71.030 Class A variances.

A. Applicability. The following variances are reviewed using a Type I procedure, as governed by Chapter 16.61, using the approval criteria in subsection B below:

1. Front Yard Setbacks. Up to a ten (10) percent change to the front yard setback standard in the land use district.

2. Interior Setbacks. Up to a ten (10) percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.

3. Lot Coverage. Up to ten (10) percent increase of the maximum lot coverage required in the base zone.

4. Lot Size. Up to five percent reduction of the minimum lot size required in the base zone.

5. Landscape Area. Up to five percent reduction in landscape area (overall area or interior parking lot landscape area).

6. All other land development standards or issues that may generally be addressed by a ten (10) percent benchmark. For variance requests not easily defined by a percentage benchmark, the Planning Official shall determine whether a variance request is eligible for processing as a Class A variance.

B. Approval Criteria. A Class A variance shall be granted if the applicant demonstrates compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;

2. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;

3. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each code standard to be modified shall require a separate variance request;

4. An application for a Class A variances is limited to one lot per application;

5. No more than three Class A variances may be approved for one lot or parcel in twelve (12) months.

16.71.040 Class B variances.

A. Applicability Class B variances may be granted in the following areas:

1. Sections within Article 16.2, Land Use Districts, including setbacks; dimensional standards including lot width, depth and coverage; street frontage requirements; structure height;

2. Sections within Article 16.3, Specific Area Plan Districts and Overlay Zones;

3. Sections within Article 16.4, Community Design Standards, including access and circulation, landscaping, street trees, fencing and screening, parking and loading, signs and the Happy Valley Style design standards;

4. Sections within Article 16.5, Public Facilities;

5. Other development standards as specified by the Land Development Code.

B. Procedures. Class B variances are reviewed using a Type II procedure, as governed by Chapter 16.61, using the approval criteria in subsections C through G below. Staff may impose such conditions as are deemed necessary to mitigate any adverse impacts which may result from granting relief.

C. Variance to Development Standards. The Planning Official or designee may grant a Class B variance of up to twenty (20) percent from any dimensional or development review standard except for lot area which shall be limited to ten (10) percent for a Class B variance if the applicant demonstrates compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;

2. That the condition requiring the variance has not been intentionally created to circumvent the Land Development Code;

3. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property;

4. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the development provisions which are in question;

5. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each Code standard to be modified shall require a separate variance request;

6. In granting the variance, the Planning Official or designee may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this title.

D. Variance to Vehicular Access and Circulation Standards. Where vehicular access and circulation cannot be reasonably designed to conform to the standards of this title within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding all of the following:

1. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;

2. There are no other alternative access points on the street in question or from another street;

3. The access separation requirements cannot be met;

4. The request is the minimum variance required to provide adequate access;

5. The approved access or access approved with conditions will result in a safe access;

6. The vision clearance requirements of Chapter 16.50 will be met; and

7. Variances for street access deviations shall be subject to review and approval by the roadway authority.

E. Variance to Street Tree Requirements. The City may approve, approve with conditions, or deny a request for a variance to the street tree requirements in Chapter 16.42, after finding the following:

1. Installation of the tree would interfere with existing utility lines, and no substitute tree with a lower canopy is appropriate for the site;

2. The tree would cause visual clearance problems; or

3. There is not adequate space in which to plant a street tree; and

4. The City may require the installation of additional or replacement landscaping elsewhere on the site (e.g., parking lot area trees) to compensate for the street tree variance;

5. Street tree approval or modification of standards within an ODOT or Clackamas County right-of-way may require approval, respectively, by ODOT or Clackamas County.

F. Variance to Parking and Loading Standards.

1. The City may approve variances to the minimum or maximum standards for off-street parking (quantities and dimensions of parking spaces) in Chapter 16.43 upon finding all of the following:

a. The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity, or modified parking dimensions, as demonstrated by a parking analysis or other facts provided by the applicant;

b. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and

c. All other Code standards are met.

2. The City may reduce the number of required bicycle parking spaces pursuant to Chapter 16.71, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.

3. The City may allow a reduction in the amount of vehicle stacking area required in for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.

4. The City may modify the loading area standards if such a reduction is deemed appropriate after analysis of the use, anticipated shipping or delivery traffic generated by the use and alternatives for loading/unloading, such as use of on- or off-street parking areas during non-business hours, provided that traffic is not impeded.

G. Variance to Maximum or Minimum Yard Setbacks to Avoid or Reduce Impacts to Floodplains, Significant Trees, Wetlands, or Other Natural Features. The City may grant a variance to the applicable setback requirements of greater than twenty (20) percent for the purpose of avoiding or reducing impact to floodplains, significant trees, wetlands, or other natural features. Modification of

the standard shall not be more than is necessary for the preservation of the nature feature to be protected.

16.71.050 Class C variances.

A. Applicability. Class C variance requests are those that do not conform to the provisions of Sections 16.71.030 and 16.71.040 (Class A and Class B), and that meet the criteria in subsections (B)(1) through (5) below. Class C variances shall be reviewed using a Type III procedure, in accordance with Chapter 16.61.

B. Approval Criteria. The City shall approve, approve with conditions, or deny an application for a variance based on all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;

2. That the condition requiring the variance has not been intentionally created to circumvent the Land Development Code;

3. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property;

4. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the development provisions which are in question;

5. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each Code standard to be modified shall require a separate variance request;

6. In granting the variance, the City Administrator or appropriate and designated body or agent may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this title.

16.71.060 Appeals.

Appeals to variance decisions shall be processed in accordance with the provisions of Chapter 16.61.

Chapter 16.72 NONCONFORMING USES, STRUCTURES AND LOTS

16.72.010 Purpose.

A nonconformity is created when regulations and standards, generally more recent than certain developmental circumstances to which they are applied, cause a pre-existing development to fail to meet those regulations and standards. The purpose of this chapter is to define, explain and delineate the nonconforming situation and to create a workable relationship between this title, the nonconforming situation and the development patterns and trends in the City. (Ord. 389 § 1(Exh. A), 2009)

16.72.020 Nonconforming uses.

A. Purpose. A nonconforming use is a use of the land, regardless of the conforming situation of the building or lot, which would not be permitted by the regulations imposed by this title, but which was lawful at the time it was established.

B. Continuation of Use. A nonconforming use may be continued even though not in conformity with the regulations for the district in which the use is located as long as it remains otherwise lawful.

C. Enlarging or Extension of Use.

1. Pursuant to the provisions and procedures of this chapter, a nonconforming use may be enlarged or extended within a building or on the same lot provided that the more restrictive requirements of either the district involved or the proper district for the use involved applies to such enlargement or extension; and provided further that all current development regulations are complied with, and that additional adverse effects are not created for abutting properties or the neighborhood, e.g., objectionable conditions, visual and noise pollution, vehicular traffic, dust, or street parking, and provided further that the provisions of this chapter are adhered to.

2. In cases of practical difficulty and unnecessary hardship, a nonconforming use in a residential district may be enlarged within its containing structure or may be permitted to enlarge within the existing floor area of its containing structure or of its land use.

D. Change of Use. A nonconforming use may not be changed or altered unless the change or alteration is to the same use classification as prescribed in the Development Code or to the classification that more nearly conforms with the regulations for the district in which the use is located.

E. Discontinuation of Use. If a nonconforming use is discontinued for a period of at least twelve (12) consecutive months, the use shall not be reestablished. For purposes of calculating the twelve (12) month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:

1. On the date when the use of land is physically vacated;

2. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services;

3. On the date of termination of any lease or contract under which the nonconforming use has occupied the land; or

4. On the date a request for final reading of water and power meters is made to the applicable utility districts.

F. Damage and Destruction. When a building which contains a nonconforming use is damaged to an extent exceeding seventy-five (75) percent of its valuation, the nonconforming use shall not be reestablished. Buildings and uses that conform to the Land Development Code requirements may be reestablished. Valuation shall be determined by an independent fee appraiser who shall be acceptable to both the City and the applicant. The cost of the appraisal shall be the sole responsibility of the applicant.

16.72.030 Nonconforming buildings.

A. Purpose. A nonconforming building is an existing building or tower lawfully constructed prior to the effective date of this Land Development Code but which, under the development standards of

the currently adopted codes or regulations, fails to meet the stated minimum standards or exceeds any stated maximum standards.

B. Continuation of the Building.

1. A nonconforming building may continue to exist and be used although the building may not be in conformity with the regulations for the district in which the structure is located as long as it remains otherwise lawful.

2. Normal maintenance of a nonconforming structure is permitted.

C. Enlarging or Alteration of a Building. No such nonconforming development may be enlarged or altered in a way that increases its nonconformity, but any development or portion thereof may be enlarged or altered in a way that satisfies the current requirements of this Code or will decrease its nonconformity.

D. Completion of a Building. Nothing contained in this title shall require any change in the plans, construction, alteration or designated use of a building for which a building permit has been issued and construction work has commenced prior to the adoption of this Land Development Code, except that if the designated use will be nonconforming, it shall, for the purpose of this chapter, be discontinued if not in operation within one year of the date of issuance of the building permit.

E. Change in Use in a Nonconforming Building (see Section 16.72.020(D)).

F. Damage and Destruction. When a nonconforming building is damaged to an extent exceeding seventy-five (75) percent of its valuation, such nonconforming building shall not be reestablished unless the building will comply with the development standards of all currently adopted ordinances, codes and regulations. Valuation shall be determined by an independent fee appraiser who shall be acceptable to both the City and the applicant. The cost of the appraisal shall be the sole responsibility of the applicant.

G. Relocation or Removal. Should such development be moved for any reason and by any distance, it shall thereafter conform to the regulations of this Code.

H. Roadway Access. The owner of a nonconforming access connection (i.e., street or highway access) may be required to bring the nonconforming access into conformance with this Title and other applicable standards as a condition of the City or other roadway authority approving a new access connection permit, or a change in land use.

16.72.040 Nonconforming lots.

A nonconforming lot is an established lot of record which, under the development standards of the currently adopted ordinances, codes and regulations, fails to meet the stated minimum standards or exceeds any stated maximum standards.

A. Continuation of the Lot. Any single vacant lot of record at the effective date of adoption of this Land Development Code may be used for development even though the lot fails to meet the requirements for area, width or depth that are generally applicable in the district, provided that yard dimensions and other requirements pertaining to the lot shall conform to the regulations for the district in which the lot is located. Further, no division of lots shall be made which will leave remaining any separate lot with an area less than the requirements stated in this chapter.

B. Enlarging or Alteration of a Lot.

1. Any nonconforming lot may be enlarged to any extent, even though the lot may remain in nonconformance; provided the enlargement does not cause the lot to exceed any stated maximum standards.

2. Any nonconforming lot may be altered with regard to size, shape and topography, provided that the degree of nonconformity is not increased.

3. Any property which is a nonconforming lot may be combined with any other contiguous property which is under the same ownership for the purpose of reducing or removing the nonconforming status of either, both or all lots. When such action has been completed and is on record with the County Clerk and/or Assessor's offices, the property may be eligible for permits as determined by the City.

16.72.050 Modification of any nonconforming situation.

A. Purpose. Before any nonconforming use is enlarged or extended or changed in any way; before any nonconforming building is extended, enlarged, rebuilt, moved or changed in any way; or before any nonconforming lot of record is altered with regard to size, shape and topography, an application must be filed with the City for such modification to take place and approval of the application must occur. The required fee must accompany the application at the time of submittal.

B. Procedure. A Type I application is required for modification to a nonconforming use. The Planning Commission or appropriate and designated body or agent shall hold a public hearing or make an administrative decision and either grant or deny the application. The Planning Commission or appropriate and designated body or agent shall base its decision to grant or deny the application for modification based on findings of fact. If the application is granted, the commission or appropriate and designated body or agent may impose such conditions and requirements as deemed necessary to insure that the intent of this Development Code is obtained. The applicant or owner(s) may appeal such decision to the appropriate appeal body by filing with the City Recorder within fifteen (15) days of the decision by the Planning Commission or appropriate and designated body or agent. If no appeal is filed, the decision shall be deemed final. If an appeal is filed, the appeal body shall hold a public hearing pursuant to the procedures provided in Section 16.61.060(H).

C. Building Variances. For modification of a nonconforming building, the application will be considered by the designated building official and the application approved or denied based on compliance with all pertinent sections of this title and with the adopted building code in the City. A copy of the decision shall be forwarded to the applicant within five working days after the receipt of application by the Building Official.

D. Lot Variances. For modifications of a nonconforming lot, the application will be considered by the Planning Commission or appropriate and designated body or agent and the application approved or denied based on compliance with all pertinent sections of this Code. No nonconforming lot may be enlarged or altered in a way that increases its nonconformity, but any lot may be enlarged or altered in a way that satisfies the current requirements of this Code or will decrease its nonconformity. Any approval or denial shall be based on findings of fact and shall be documented. A copy of the decision shall be forwarded to the applicant within five working days after the receipt of application by the City Recorder.

E. Temporary Permits. The Planning Commission or appropriate and designated body or agent after public hearing may permit the temporary use of a structure or premises in any district for a

purpose or use that does not conform to the regulations prescribed elsewhere in this title for the district in which it is located, provided that such use be of temporary nature and does not involve the erection of a substantial structure. A permit for such use may be granted in the form of a temporary and revocable conditional use permit, for not more than a twelve (12) month period, subject to such conditions as will safeguard the public health, safety, convenience and general welfare. Such permits may be renewable upon reapplication to the Commission or appropriate and designated body or agent and the finding by the commission or appropriate and designated body or agent of a continuing need. However, the finding of a continuing need by the Commission or appropriate and designated body or agent shall not necessarily mean that such permit will be renewed.

Happy Valley Style

Appendix B

March 2013 Documentation

Angelo planning group

HDR | ONE COMPANY *Many Solutions*

Acknowledgements

We would like to recognize the hard work, focus and commitment that the Design Review Board and City Staff brought to this document.

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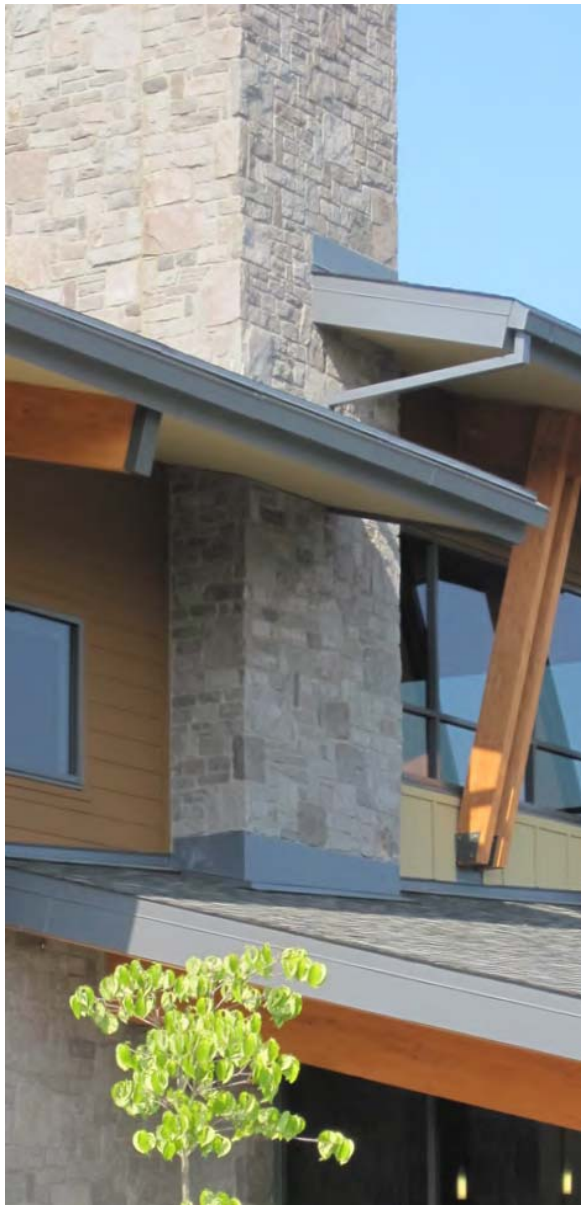

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1. Introduction

1.1 Purpose

The purpose of the Happy Valley Style is to guide future development in areas that are designated for high-intensity development through the promotion of certain architectural and site design elements that will contribute to a cohesive identity. These guidelines suggest that development should use cohesive architectural expression and also ensure that development is of high quality and thoughtfully designed.

The purpose of this document is to outline the Happy Valley Style. The photographs throughout are intended to illustrate how a project might meet individual elements of the Happy Valley Style. Each photographic example does not include all of the elements of the Happy Valley Style nor do they illustrate the only way that element can be met.

1.2 Brief History of Happy Valley

Happy Valley, originally a fertile and wooded hollow surrounded by mountain ridges, was first settled in the 1850s by homesteaders. The first houses in Happy Valley were primitive log cabins, later replaced by frame houses. Some of the homes and barns built by homesteaders in the late 19th and early 20th centuries are still standing. Happy Valley's City Hall was located in a replica of an 1890s home until 2009.

Access to Happy Valley was difficult in the early days. A steep dirt road leading over Mount Scott often was impassable in wet weather. The road was graveled in 1915. A second access road to the north eventually was built, now "Deardorff Road" named for one of the early settlers.

While all of the original homesteads have been sub-divided many times, Happy Valley has retained some of its rural character. Happy Valley's architectural history is best represented by the farmhouse and barn. Most buildings in present day Happy Valley are detached single-family homes of various styles. The elementary school is one of the few non-residential buildings in town. The original 1890s school building was replaced in 1917. Later additions followed in the 1930s, 50s and 60s.

Commercial development in Happy Valley's vicinity, namely along Sunnyside Road to the east and west of the Planned Mixed Use (PMU) district, has a wide range of sizes and styles; from converted historic homes with small, locally owned shops to large suburban shopping centers of nondescript architecture with national tenants.

The historic Happy Valley City Hall

2. Character of the Happy Valley Style

Happy Valley has historically been a residential community. However, in order to comply with its regional Town Center designation and the annexation of new land, more commercial and multi-family development is sure to occur in the near term. It is important to residents and officials that new commercial and mixed-use buildings carry the city's residential past forward. Therefore, one of the key elements of the Happy Valley style is residential character.

New development can incorporate residential character in many ways. However, the primary intent of this concept is that new buildings draw inspiration from design features common to certain historic architectural styles. Styles that were felt to be especially appropriate to draw inspiration from include the Craftsman style, Prairie style, and Oregon Rustic style. The descriptions of historic residential styles on the following pages is intended to provide information about the characteristic features that may be incorporated into Happy Valley Style projects, not to suggest a literal interpretation of any one style.

While contemporary in its application, this local bank building reflects the Happy Valley Style's intent to draw from historic architectural styles and evoke a residential character.

Projects designed in the Happy Valley Style should evoke a residential character, drawing on architectural features found in traditional residential architectural styles, such as gabled roofs, dormers, decorative brackets, window patterns, and porches.

The Happy Valley Style should also promote residential character through the use of complex massing and varied rooflines – that is, buildings should appear to be made up of multiple masses and provide a distinction between the base and upper levels.

Appropriate materials for the Happy Valley Style draw on the Pacific Northwest's natural resource heritage. Natural (or natural-looking), rustic materials, such as stone and wood should be used, particularly at the base of buildings. Combinations of stone, wood, and glass are encouraged while concrete and steel may be appropriate complements if a more contemporary expression is desired.

Equally important to incorporating a residential character, the Happy Valley Style is also pedestrian oriented, creating interest at the street level by emphasizing main building entrances with architectural features such as awnings and projections; including opportunities to look in and out of ground level commercial uses; and, creating strong corners. Happy Valley's unique topography should be used to allow for parking to be located below grade and at the rear of a project where economically and technically feasible.

Features that convey a sense of arrival and departure, such as gateways or medians should be developed so that pedestrians and motorists know they are entering an area of significance. Finally, the Happy Valley Style encourages projects to preserve and incorporate natural features into project design.

While it is influenced by historic architectural styles, the Happy Valley Style is not meant to achieve a literal replication of historic buildings, but an appropriate contemporary interpretation of these design principles.

The Happy Valley Style is also flexible enough to allow for variety, acknowledging different needs and preferences of various uses. Projects do not need to include all features that make up the Happy Valley Style. However, projects should reflect the Style's characteristic elements in varying combinations.

The pitched, gabled roof, asymmetry, multiple scales and varied materials of the Hikade Building (Clackamas County) contribute to its residential character.

2.1 Craftsman Style (1905-1930)

The Craftsman Style was influenced by the English Arts and Crafts movement, oriental wooden architecture and the manual arts. Pattern books and magazines helped them to become an extremely popular and fashionable style for small residences.

Characteristic elements of the Craftsman style include:

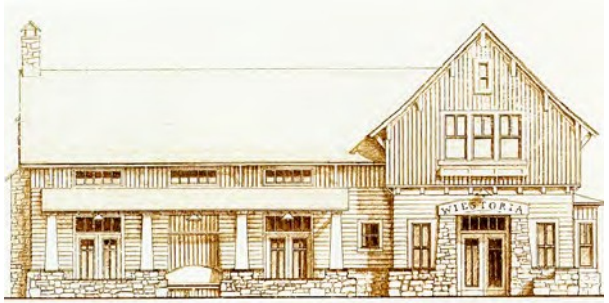
- Low pitched gabled roof with wide, unenclosed overhang
- Exposed roof rafters and beams
- Covered porches supported by thick square, often tapered columns
- Decorative brackets
- Large front windows and dormer windows
- Combination of materials

This mixed-use building is a contemporary adaptation of the Craftsman Style.

2.2 Oregon Rustic Style (1915-1940)

Buildings of the Oregon Rustic style were designed to harmonize with their Pacific Northwest surroundings and often used combinations of local natural stone and timber and sometimes emulated the look of Pioneer or folk architecture. Characteristic elements of the Oregon Rustic Style include:

- Asymmetrical building form and massive building appearance
- Varied, expansive pitched roof line with gable or hipped roofs
- Heavy masonry base
- Rough faced stone, logs and timber
- Dormer windows
- Numerous, small windows on the upper levels with many panes.

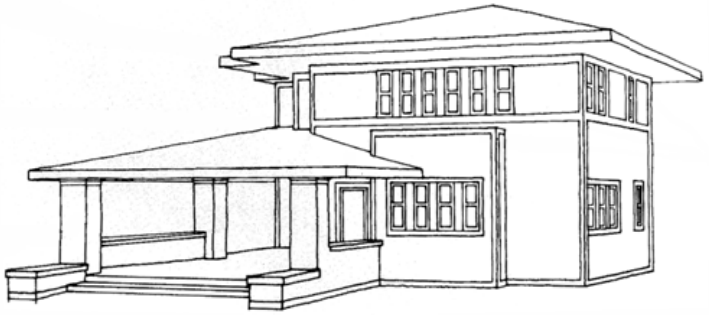


The design of this local grocery store uses many of the characteristics and materials typical for the Oregon Rustic Style.

2.3 Prairie Style (1900 to 1920)

The Prairie Style originated in Chicago and flourished in America's suburbs. One vernacular subtype particularly common to Oregon is the American Foursquare. Decorative emphasis is horizontal in nature. Characteristic features of the Prairie style include:

- Low or medium pitched, hipped or gable roof with wide, soffited overhang
- Roof and façade detailing emphasize horizontal lines
- Often two-story structures with lower wings or porches supported by massive, square columns
- Contrasting wood trim between stories and contrasting colors on eaves and cornice are typical of horizontal detailing.
- Windows are often grouped to achieve a horizontal band, often separated from the wall below by a distinct cornice line



Happy Valley's new City Hall uses Prairie Style-inspired contemporary architecture.

3. Building Siting

3.1 Pedestrian Orientation

A pedestrian friendly, human scale environment encourages interaction between people, and connects retail and other commercial services to one another in order increase safety and provide opportunities for window shopping. To support this, buildings should be located adjacent to and oriented to the street or other public space. Main entrances should directly face the sidewalk or, where present, a pedestrian amenity such as a small park or plaza. Parking should be relegated to the rear or the side of a building. Situations where a parking lot abuts the sidewalk should be minimized, and on primary pedestrian routes it should be avoided.

The photos on this page show real life examples of successful pedestrian orientation.

This building is located at the sidewalk and has entrances at the front, thus activating the street facade and creating a lively and interesting street experience. The trellis structure along the facade provides visual interest and partial shade in the summer.

While set back from the sidewalk, this building provides a pedestrian amenity for outdoor seating at the street facade.

This Happy Valley development is oriented around a small plaza in front of a number of storefronts.

The photos on this page illustrate examples of pedestrian amenities that may warrant an exception to the maximum setback requirements. These amenities include widened sidewalks, corner plazas, or courtyard plazas that provide the primary building access and may accommodate cafe seating, benches, fountains, and merchandise display.

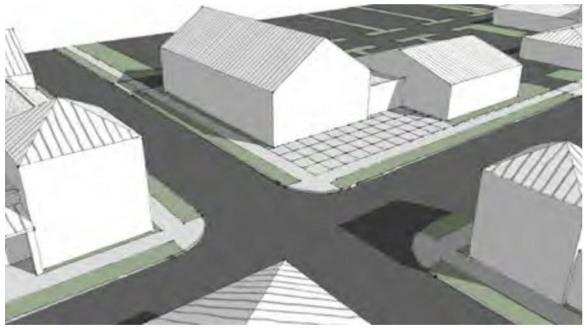
This storefront building in Blaine, Minnesota is set back to provide additional sidewalk width for outdoor cafe seating.

This grocery store in Portland, Oregon is oriented around a small corner plaza that provides outdoor seating and merchandise display. The plaza also houses a weekly farmers' market.

This small plaza in New Town St. Charles, Missouri provides access to a grocery store, the community's mail center, and town hall.

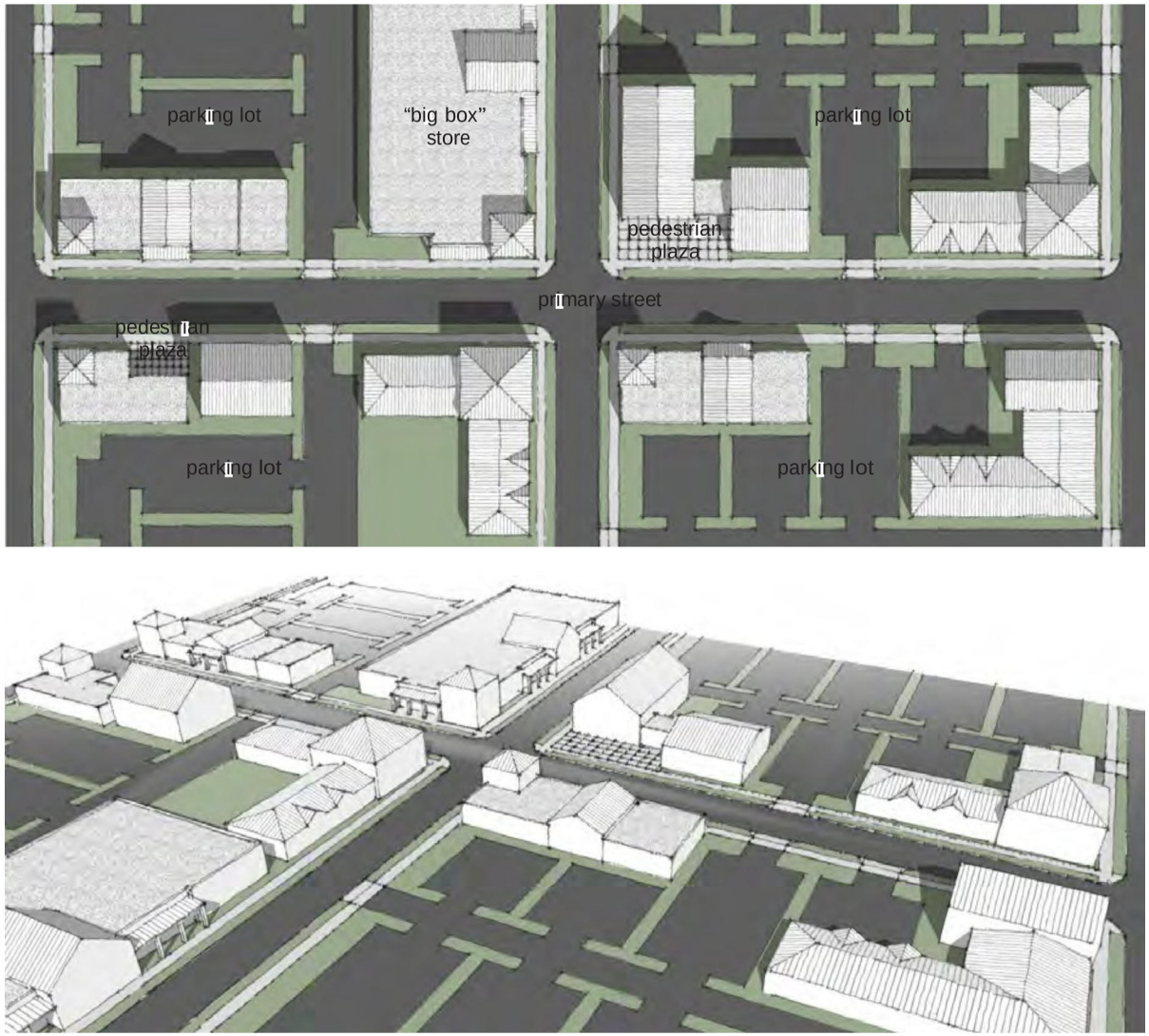
This grocery store in Healdsburg, California embraces a small corner plaza that provides access to the entrance and outdoor seating for the store's deli.

The illustrations on this page show a prototypical commercial development in accordance with the provisions of the Happy Valley Style. The drawings also illustrate a variety of building massing and design techniques that are discussed in subsequent sections of this document.



The building in this sketch is shown with a deep setback that accommodates a small pedestrian plaza. The Happy Valley Style Design Standards provide for flexibility in the maximum setback requirements for projects that include pedestrian amenities such as this.

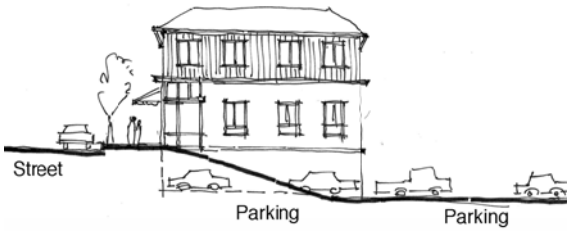
While off-street parking is typically preferred behind the building, this sketch illustrates how parking in the front may be permitted as long as at least 50 percent of the building's frontage complies with the maximum front setback.



The drawings above illustrate a plan view and birdseye view of a prototypical commercial development in accordance with the Happy Valley Style. Buildings are shown oriented to the sidewalk or a pedestrian amenity, while parking is primarily relegated to areas to the side or rear of the buildings. The result is a street that is lined with buildings, rather than being dominated by parking lots.

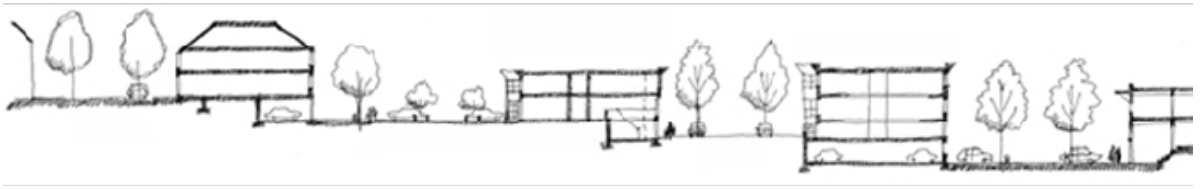
3.2 Using Topography

Where feasible, buildings should incorporate Happy Valley's unique topography into the building design, especially to accommodate parking and allow for delivery without negatively impacting pedestrian orientation and the streetscape.



This sketch shows how a building can use a site's existing slope to provide a parking and loading access from the rear while maintaining a pedestrian friendly environment at the street level.

This mixed use development (Lake Oswego, Oregon) incorporates the site's existing slope and uses it to provide below-grade residential parking and create a more compact development.

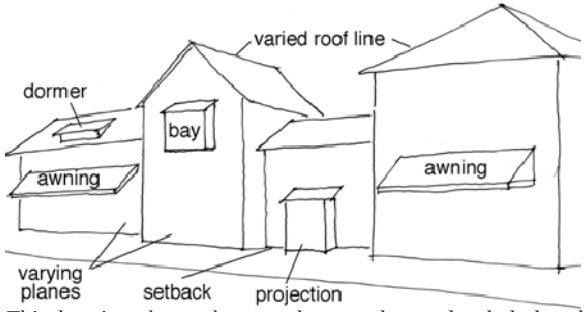


This public park in Bellingham, WA is located on top of a parking structure and takes advantage of the site's natural topography.

4. Building Massing

4.1 Complex Massing

Multiple elements can be used to achieve complex massing in the Happy Valley Style. Incorporating projecting and recessing elements, asymmetry or varied heights helps to break the massing of a single building down into smaller increments. However, the design elements shall be carefully selected and applied to ensure a harmonious and cohesive overall building design and character. Building articulation shall not result in jarring or overly busy facades due to inartfully applied design elements. Similarly, color should be used to create an overall design theme, rather than draw sharp distinctions between various building elements.



This drawing shows elements that can be used to help break down the perceived size of buildings and achieve more complex massing.

This drawing shows a "big box" store that provides a human scaled street appearance due to modulation of the facade plane, variation of the roofline, and the use of projecting elements such as awnings and galleries.

While clearly one structure, this multi-tenant building employs changes in roofline, cornice line and facade plane to create a more complex massing.

The facade of this local grocery store employs a variety of elements to achieve complex massing. In doing so, the building maintains a scale that supports the desired character.

This Craftsman Style inspired commercial building in Sandy, Oregon utilizes dormers, awnings, bays and projections to create complex massing.

This local commercial development consists of multiple tenants. The building's massing creates the appearance of a series of distinct buildings through the use of setbacks and projections, awnings, and a varied roofline.

4.2 Strong Corners

Public and private street corners are a natural location for pedestrian interaction because higher levels of pedestrian and vehicular traffic occur where streets intersect. Siting and designing buildings to create strong, enclosed corners can enhance the pedestrian experience and contribute to a sense of place. Locating architectural elements at street corners also contributes to a more interesting building design and pedestrian experience.

This building has a formalized tower element at the street corner. The tower is a full story taller than the remainder of the building and its facade slightly extends beyond the adjacent building facades to further accentuate the corner.

This Happy Valley building uses a taller pitched roof to emphasize the street facing corner of the development. While the entire structure is single-story, the change in the roofline provides a visual emphasis.

This drawing illustrates a typical commercial development that incorporates many of the design features of the Happy Valley Style. The buildings are designed with "strong corners" consisting of taller building volumes at the street corners. This approach increases the spatial definition of the street space and contributes to a pleasant pedestrian environment.

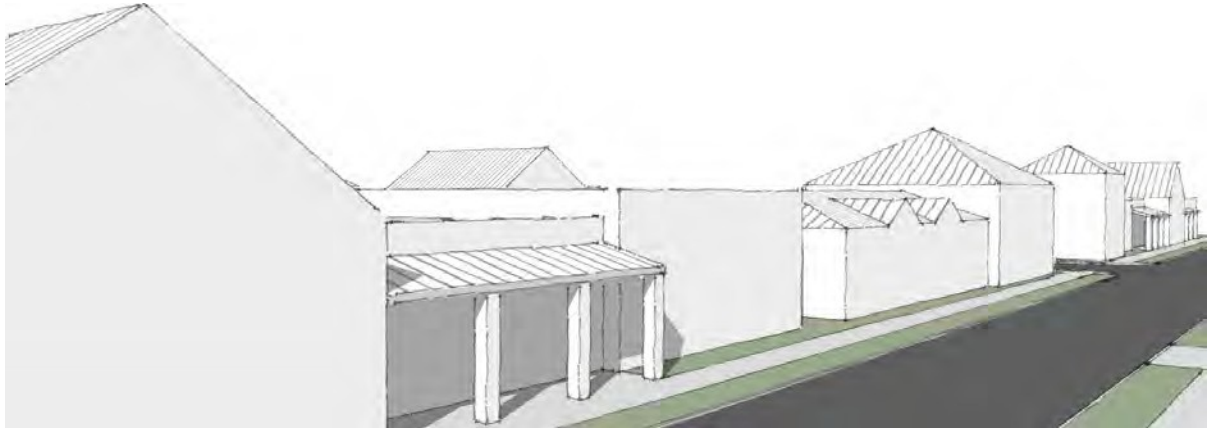
The corner emphasis in this mixed-use building is achieved through a change in both the roofline and the facade plane. The building projects above the sidewalk at the intersection to create a strong corner. The corner portion is also taller than the rest of the building.

4.3 Varied Rooflines

Buildings with varied roof lines create interest and help break down a project's overall scale and massing. Additionally, they contribute to a building's residential character. For smaller buildings, the required roof forms of the Happy Valley Style are gabled and hipped types. For larger buildings, flat roofs are permitted but require an articulated edge utilizing a parapet or "applied pitch" to emphasize the desired residential character. To create variety to the massing of larger structures and relieve the effect of a single, long roof, secondary roof elements are also required.

The Lakeview Village development (Lake Oswego, Oregon) is an example of a large-scale retail project that incorporates a varied roofline using steeply-pitched front gables.

This local grocery store employs a dramatic change in the roofline to support complex massing and emphasize the building's main entrance.



This sketch illustrates how a varied roofline can contribute to an interesting streetscape. A varied roofline can be achieved through the use of different roof forms and orientations, changes in ridge or eave height, and the use of additive elements such as porticos, awnings, galleries, and dormers.

This Fire Station (Jackson, Wyoming) uses a dormer with a gabled detail and smaller front gables to achieve a varied roofline.

Happy Valley's new City Hall uses Prairie Style-inspired low pitched roofs at various levels to create interest and indicate the building entrance.

This local commercial development appears to consist of three buildings, which is achieved through distinct roof forms. The awnings and galleries add further detail that helps break up the massing.

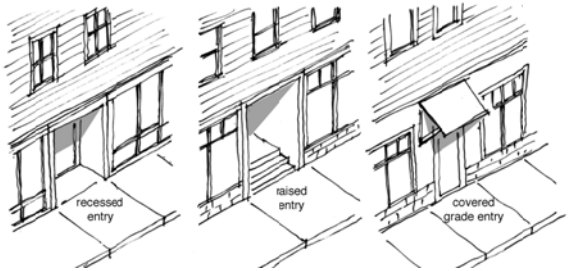
5. Building Design

5.1 Building Orientation and Main Entrance Emphasis

In order to create a pedestrian friendly environment, buildings should be oriented to public and private streets or open space, not to parking lots. In addition to being celebrated through the use of architectural elements, such as awnings and transom and other windows, a building's entrance should face the street to the maximum extent practicable. Emphasis can also be achieved through recessed or projecting entrances, or raised entryways.

The entrance to this grocery store (downtown Portland) is emphasized through its placement at the corner and through the use of bold signage.

The main entrance into this grocery store in Happy Valley is quite dramatically emphasized through a central architectural element that projects out from the remaining building facade and has a steeply pitched roof.



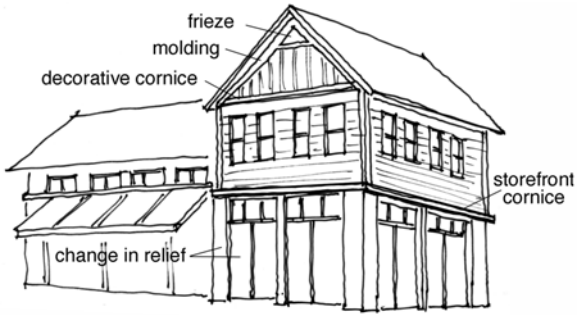
Building entrances can be celebrated through the use of recessed, raised and covered entryways.

This drugstore in Sandy, Oregon is placed close to the sidewalk with the parking lot located to the side. The main entrance is located at the corner to address both the street as well as the parking lot. Furthermore, the entrance is emphasized through an architectural tower element.

5.2 Façade Design and Ground Floor Appearance

Well-articulated facades, particularly at the ground floor level, help create an interesting and pleasant experience for pedestrians. Common elements of well-articulated facades include changes in relief, a mix of compatible materials, harmonious window patterns, and applied elements such as awnings at regular intervals. Large windows on the ground floor of commercial buildings also provide interest to pedestrians and allow views in and out of a building. Ornamental elements that break up large wall surfaces add interest and order to a facade. Ornamental elements may include decorative cornices, moldings and friezes at the roofline.

Buildings with ground floor retail uses can create an interesting pedestrian environment through extensive use of storefront windows, awnings, and arcades.



This sketch shows an example of a well articulated building façade featuring elements such as awnings, storefront windows, and varying materials to create interest.

This commercial storefront building in Mashpee, Massachusetts is located at the sidewalk and has entrances at the front, thus activating the street facade and creating a lively an interesting street experience. The awnings and arcade provide shelter from rain and sun a add to the pedestrian experience.

The photos on this and the following page show examples of successful storefronts that provide for an interesting pedestrian experience. While diverse in their architectural expression, style, and usage of materials they share the fundamental design elements that make for an interesting ground floor appearance: large, transparent windows, a harmonious pattern of facade articulation, and building elements that provide shelter from sun and rain.

This traditional storefront building has all the elements of pedestrian-friendly design: large transparent windows, awnings, doors that open directly on the sidewalk, sufficient room for outdoor seating and merchandise display, and street trees that do not block views.

While contemporary in its expression, this mixed-use building in Portland, Oregon provides a vibrant storefront experience at the sidewalk level.

This storefront building in Happy Valley faces a sidewalk in a commercial development. The gallery provides shelter and adds visual interest.

This mixed-use building in Lakeview Village (Lake Oswego, Oregon) uses ground floor windows and divided bays to create an articulated storefront appearance.

This grocery store in Portland is designed with a very transparent and lively facade providing an interesting pedestrian experience.

This wooden storefront evokes a residential character through scale and detailing.

This traditional wooden storefront in the outskirts of Philadelphia, Pennsylvania complements the small town character of its surroundings.

This storefront building in Denver, Colorado combines contemporary materials and detailing with proportions that evoke traditional storefronts and small town character.

Buildings with ground floor office uses should employ large, transparent windows at the ground floor level in combination with ornamental detailing and recesses in the façade, in order to create a lively pedestrian realm. While typically lacking storefronts, office buildings can contribute to an interesting pedestrian realm through well detailed and well proportioned architecture.

The photos on this page show a variety and scale of office buildings.

This mixed-use building provides office space on the ground floor. The building's location at the sidewalk in conjunction with larger windows achieves an attractive and interesting ground floor appearance.

This office park development in California employs contemporary architecture and materials, however, the scale and facade patterning provides a human scaled and pedestrian friendly environment.

This dental office in Bend, Oregon is designed with a residential character to be compatible with the surrounding neighborhood.

This cluster of office buildings in Bend's Shevlin Riverfront development mirrors the scale and detailing of the surrounding residential neighborhood. The photo shows the shared parking lot in the rear of the buildings.

5.3 Materials

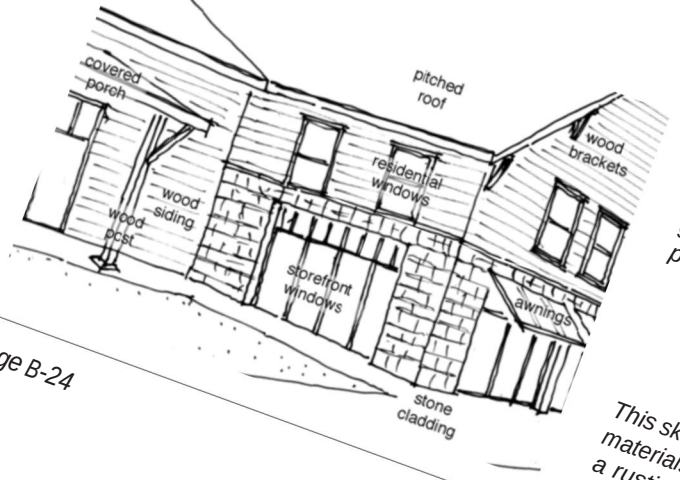
The most appropriate materials for the Happy Valley Style draw on the Pacific Northwest's natural resource heritage. Natural (or natural-looking), rustic materials, such as stone and wood should be used as primary building materials.

Materials can help to break down building massing when heavier materials are located at the building base and lighter materials are placed the upper levels.

Combinations of stone, wood, and glass are encouraged while concrete and steel may be appropriate complements if a more contemporary expression is desired. The use of red brick and stucco should be minimized, though red brick may be used as a secondary material where appropriate. The monolithic and dominating use of these materials should be avoided.

Happy Valley's new City Hall uses a combination of stone cladding, wood siding and structural elements, and generous amounts of glass to create an interesting facade pattern.

Multiple materials may be incorporated into a single building, with the heavier materials at the base and lighter materials above.



This sketch illustrates a building that features a mix of materials that evoke the Happy Valley Style. These include a rusticated masonry base, an upper level clad in wood siding and large, glass windows.

In addition to the dramatic changes in roofline, this grocery store also uses a wide range of rustic materials in combination with steel and concrete.

The Hikade building incorporates a variety of materials that exemplify the Happy Valley Style, including stone (primary material), wood , glass and steel. The building's side wing is clad in wooden lap siding, evocative of a barn structure.

Lakeview Village (Lake Oswego, Oregon) uses rusticated stone as the primary building material for this portion of the office retail development.

This local bank building employs traditional lap siding as primary material, which in conjunction with the gabled roof evokes a residential character. The large windows and the use of steel for window and door frames and awnings provide a contemporary contrast.

A brick clad wing of a building in Happy Valley utilizing yellow brick as primary material.

The base of this building is clad in multi-colored brick, which provides a nice contrast to the wood cladding above.

The corner building of this multi-tenant development is clad in brick and provides a contrast to the stuccoed facades.

6. Street Furnishing Recommendations

Though the Happy Valley Style does not dictate specific designs for street furnishing and lighting (beyond existing provisions in the LDO), the following images provide general examples of the types of elements and features that might be appropriate for Happy Valley.

Tree grates, benches and street lights are basic elements in creating a pedestrian friendly streetscape. The selection of light fixtures to provide adequate lighting without glare is crucial, as is the selection of tree species to maintain visibility of storefronts and minimize maintenance.

Textured and colored sidewalks and crosswalks can provide visual cues to drivers and help improve pedestrian safety. They can also contribute to an aesthetically cohesive development.

Bicycle racks are an important feature to provide for orderly bike parking and to support non-motorized traffic.

Public art in streets, parks or plazas adds visual interest and meaning to the public realm and can help create identity.

Fountains can contribute to the quality of a public space by adding visual interest, pleasant sound, and a temperature moderating aspect in the summer heat.

7. Additional Recommendations

7.1 Provide a Sense of Arrival and Departure

To reinforce visual identity and a sense of place a clear sense of arrival at a place or departure form a place is important. This sense of arrival and departure can be created by visual cues that communicate to a motorist, bicyclist or pedestrian that they have arrived at or are about to leave a distinct place. These visual cues can be quite literal and include gateways, entry markers, or signage. Visual cues can also consist of changes in building height and siting that increase the level of spatial enclosure, special architectural features, or the presence of a park or plaza area.

A gateway or entry markers indicate to drivers that they are entering a distinct place.

A sense of arrival can be achieved through a sudden change in building height and siting.

A combination of street trees and curb extensions can provide visual cues that drivers are entering a distinct place.

The presence of a park or square can establish a distinct visual identity and provide passersby with a strong sense of arrival.

7.2 Encourage Mixed Use Buildings

Mixed-use buildings are one component of an active, pedestrian-oriented environment as they support activities throughout the day. Including residential uses in a commercial development has benefits for retailers as well as residents, who live within an easy walk from many goods and services. Mixed-use buildings may also provide the opportunity for shared parking and thus reduce the overall number of required parking spaces.

Mixed use buildings in the Happy Valley Style can combine office and retail uses, residential and retail uses or residential and office uses.

This mixed-use project in Eugene, Oregon has retail uses on the ground floor and residential above. The development incorporates characteristics of the Happy Valley Style such as varied rooflines, complex massing, strong corners and façade articulation.

This large mixed-use development uses complex massing, varied rooflines, and proportions, detailing and materials to break down the scale of the building and evoke a residential character.

7.3 Preserve and Integrate Natural Features

Projects should incorporate and highlight existing natural features to the extent feasible to provide pedestrian amenities, create visual interest, and contribute to environmental protection.

This boardwalk provides pedestrian access across a wetlands area in Woodinville, Washington.

This street in Fairview Village, Oregon was designed to preserve a stand of existing trees in a wide planter strip that functions as a small neighborhood park.

This development in Bend, Oregon preserved a growth of mature trees and integrated them into a small park. The sidewalk meanders through the trees and provides a pleasant pedestrian environment.

The City of Caldwell, Idaho daylighted and restored the previously buried Indian Creek through the city center to provide a public amenity and encourage development to embrace the creek.

As part of the Headwaters development in Portland, Oregon the buried Tryon Creek was daylighted and restored to a naturalistic condition.

Happy Valley Municipal Code: Land Development Code Effective December 6, 2022

APPENDIX A Happy Valley Plant List

Introduction.

The Happy Valley Plant List is an integral component of the City of Happy Valley's natural resource protection program. Native plants identified on the list are required within the City's Habitat Conservation Areas, pursuant to Chapter 16.34 of the Land Development Code; invasive or harmful plants (identified on the "Nuisance" or "Prohibited" Plant Lists) are prohibited.

Happy Valley's native plant policy is designed to ensure the continued viability and diversity of indigenous plant and animal communities, promote the use of plants naturally adapted to local conditions, and educate citizens about the region's natural heritage and the values and uses of native plants.

A healthy native plant community serves many important functions: it provides habitat for native wildlife and preserves critical habitat for rare, threatened and endangered animals and plants; enhances air and water quality by trapping airborne particulates and by filtering sediments and pollutants from runoff before they enter streams and aquifers; stabilizes stream banks and hillside slopes, and dissipates erosive forces; ameliorates the local microclimate, and reduces water and energy needs; and provides scenic, recreational and educational values which, in turn, enhance Happy Valley's livability. Native plants are part of the region's natural heritage.

The Three Lists: Native, Nuisance and Prohibited.

The Happy Valley Plant List is divided into three sections: native plants, nuisance plants and prohibited plants. These sections are summarized below.

The Native Plants section is a listing of native plants historically found in the Portland region. The list divides the plants into three groups: trees and arborescent shrubs, shrubs and ground covers. For each group, the list includes the scientific (Latin) name of a species, its common name, its wetland indicator status, and its associated habitat type. The habitat types are: wetland, riparian, forest, forested slopes, thicket, grass and rocky.

The Nuisance Plants section is a listing of plants found in the Portland region which can be removed manually without requiring further City review; other local, State or Federal laws may still regulate removal of certain plants on this list. Nuisance plants may be native, naturalized or exotic. They are divided into two groups: plants which are considered a nuisance because of their tendency to dominate plant communities, and plants which are considered harmful to humans. Each group identifies the scientific and common plant names and their indicator status.

The Prohibited Plants section is a listing of plants which the City of Happy Valley prohibits from use in all reviewed landscaping situations within the City limits. These plant species pose a serious threat to the health and vitality of native plant and animal communities. Manual removal of these plants is exempt from land use review.

Modification of Lists.

Plants may be added to or removed from the Native Plant List or Nuisance Plant List as follows. When a request to amend either list is received, the Planning Official will consult with three or more knowledgeable persons with botany, biology or landscape architecture backgrounds to determine whether the requested change is warranted. This decision will be forwarded to the applicant and will be final. The primary source for native plant determination is the five-volume set, Flora of the Pacific Northwest, by Hitchcock and Cronquist.

Adding to or removing plants from the Prohibited Plant List must be done through a legislative procedure as provided in Chapter 16.67 of the Land Development Code.

Native Plants.

This section provides a list of native plants historically found in the Portland region. The list divides plants into three groups: trees and arborescent shrubs, shrubs and ground covers. Arborescent shrubs are indicated with an "[a]" superscript.

The Indicator Status refers to the frequency with which a plant occurs in a wetland; the categories are derived from the List of Plant Species That Occur In Wetlands: Northwest Region (USFWS, Biological Report 88(26.9), 1988). The status of certain plants was revised using the 1993 Supplement to the List (for Region 9). The indicator categories are as follows:

Obligate Wetland (OBL): Occur almost always (estimated probability >99%) under natural conditions in wetlands.

Facultative Wetland (FACW): Usually occur in wetlands (estimated probability 67%-99%), but occasionally found in non-wetlands.

Facultative (FAC): Equally likely to occur in wetlands or non-wetlands (estimated probability 34%-66%).

Facultative Upland (FACU): Usually occur in non-wetlands (estimated probability 67%-99%), but occasionally found in wetlands (estimated probability 1%-33%).

Obligate Upland (UPL): Occur in wetlands in another region, but occur almost always (estimated probability >99%) under natural conditions in non-wetlands in the Northwest region.

A positive (+) sign used with an indicator category means that the plant occurs more frequently at the higher end of the range (more frequently found in wetlands). For example, FACW+ indicates that the plant is typically found in Northwest wetlands with an estimated probability of 83%-99%. A negative (-) sign indicates a frequency toward the lower end of the range (less frequently found in wetlands). An NI (no indicator) was recorded for those species for which insufficient information was available to determine an indicator status. If no category or symbol is indicated for a plant then either the plant does

not occur in wetlands, or the species was not reviewed by the 1988 or 1993 interagency panels that developed the list.

The Habitat Types are wetland, riparian, forest, forested slopes, thicket, grass and rocky. “Wetland” includes all forms of wetlands found in Portland. “Riparian” includes the riparian areas along the Willamette and Columbia Rivers, and other streams in Portland. “Forest” refers to upland forested areas with little or no slope. “Forested slopes” refers to steeply sloping upland forests such as the west hills and various buttes found in Portland. “Thicket” refers to edges of forests and meadows and includes hedgerows and clumps of vegetation that may be found in meadows. “Grass” refers to open areas or meadows. It may also include clearings in forested areas. “Rocky” refers to rocky upland areas, and may include cliffs.

The information on habitat types is intended to provide general guidance for appropriate planting locations; certain plants, however, have highly specialized habitats which may make them appropriate for use only in specific areas of the region. For this reason, it may be helpful to consult with local botanists or published sources when preparing a planting plan.

Sources of Native Plants.

Native plants can be acquired through many local and specialty plant nurseries in the Portland area. A useful native plant directory, Hortus Northwest, is available by writing Hortus Northwest, P.O. Box 955, Canby, OR 97013. Occasionally, particularly for large orders or less common plants, growers will need time to propagate and raise plants before they are ready for installation. For this reason, growers may need advance notice of plant orders and project timelines should allow adequate time to fill such orders.

Native Groundcovers A-B.

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Achillea millefolium	Yarrow	FACU						X	
Achlys triphylla	Vanillaleaf				X	X			
Acnatherum lemmonii	Lemmon’s Needlegrass							X	X
Acnatherum occidentalis sp. californica	California Needlegrass							X	X
Actaea rubra	Baneberry				X	X			
Adenocaulon bicolor	Pathfinder				X	X			
Adiantum aleuticum	Northern Maidenhair Fern	FAC		X	X	X			X

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Agoseris grandiflora	Large-flowered Agoseris					X		X	
Agrostis exarata	Spike Bentgrass		X	X					
Agrostis scabra	Rough Hairgrass		X	X					
Alisma gramineum	Narrow-leaved Water Plantain		X						
Alisma plantago-aquatica v. americanum	American Waterplantain	OBL	X					X	
Allium acuminitum	Hooker's Onion							X	X
Allium amplectens	Slim-leafed Onion							X	
Allium cernuum	Nodding Onion								X
Alopecurus geniculatus	Water Foxtail	OBL	X						
Amsinckia intermedia	Fireweed Fiddleneck							X	
Anaphalis margaritacea	Pearly-everlasting							X	
Anemone deltoidea	Western White Anemone				X	X			
Anemone lyallii	Small Wind-flower				X	X			
Anemone oregana v. felix*	Oregon Anemone*	FACU			X	X			
Angelica arguta	Sharptooth Angelica	FACW	X	X				X	
Angelica genuflexa	Kneeling Angelica	FACW	X						

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Apocynum androsaemifolium	Spreading Dogbane					X		X	
Aquilegia formosa	Red Columbine	FAC		X	X		X	X	X
Arenaria (see Moehhringia)									
Arnica amplexicaulis v. piperi	Clasping Arnica	FACW	X	X	X				
Artemisia douglasiana	Douglas's Sagewort	FACW	X	X					
Artemesia lindleyana	Columbia River Mugwort	OBL	X	X					
Aruncus sylvester	Goatsbeard	FACU+		X	X	X			
Asarum caudatum	Wild Ginger	FACU			X	X			
Aster chilensis sp. hallii	Common California Aster	FAC						X	
Aster curtus*	White-topped Aster*							X	
Aster modestus	Few-flowered Aster	FAC+			X	X			
Aster oregonensis	Oregon White-topped Aster				X				
Aster subspicatus	Douglas's Aster	FACW	X	X	X		X	X	
Athyrium filix-femina	Lady Fern	FAC		X	X				
Azolla filiculoides	Duckweed	OBL	X						
Beckmania syzigachne	Slough Grass	OBL	X						

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Bergia texana*	Texas Bergia*	OBL	**X**	**X**					
Bidens cernua	Nodding Beggars-tick	FACW+	**X**						
Bidens frondosa	Leafy Beggars-tick	FACW+	**X**						
Bidens vulgata	Western Beggars-tick	FACW+	**X**						
Blechnum spicant	Deer Fern	FAC+	**X**	**X**	**X**				
Bolandra oregana*	Bolandra*	FACW	**X**	**X**					**X**
Botrychium multifidum	Leathery Grape-fern	FAC			**X**	**X**		**X**	
Boykinia major	Greater Boykinia	FACW	**X**	**X**				**X**	
Boykinia occidentalis	Slender Boykinia	FAC	**X**	**X**	**X**				
Brasenia Schreberi	Water-shield	OBL	**X**						
Brodiaea coronaria	Harvest Brodiaea							**X**	
Brodiaea howellii	Howell's Brodiaea						**X**	**X**	
Brodiaea hyacintha	Hyacinth Brodiaea	FACU						**X**	
B. (see also Dichelostemma)									
Bromus carinatus	California Borme grass			**X**	**X**			**X**	
Bromus sitchensis	Alaska Brome			**X**	**X**			**X**	
Bromus vulgaris	Columbia Brome							**X**	

*These plants are identified as rare, threatened, or endangered on the Federal, State, or Oregon Natural Hertiage Program Lists (see Rare, Threatened, and Endangered Plants and Animals of Oregon, Oregon Natural Heritage Program, Portland, Oregon; August 1993).

Native Groundcovers C.

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Callitriche heterophylla	Different-leaf Water starwort	OBL	X						
Calochortus tolmiei	Tolmie's Mariposa						X	X	X
Calypso bulbosa	Fairy Slipper	FAC+			X	X			
Camassia leichtlinii	Leichtlin's Camas	FACW-	X					X	
Camassia quamash	Common Camas	FACW	X						
Campanula rotundifolia	Round-leaf Bluebell	FACU+							X
Campanula scouleri	Scouler's Bellflower				X	X	X	X	
Cardamine angulata	Angled Bittercress	FACW	X	X	X				X
Cardamine occidentalis	Western Bittercress	FACW+	X					X	
Cardamine oligosperma	Little Western Bittercress	FAC	X	X	X			X	
Cardamine penduliflora	Willamette Valley Bittercress	OBL	X	X					
Cardamine pensylvanica	Pennsylvania Bittercress	FACW	X		X				
Cardamine pulcherrima v. tenella	Slender Toothwort				X	X			
Carex amplifolia	Big-leaf Sedge	FACW+	X		X				

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Carex aperta	Columbia Sedge	FACW	**X**	**X**					
Carex aquatilis v. dives	Sitka Sedge	OBL	**X**						
Carex arcta	Cluster Sedge	OBL	**X**	**X**				**X**	
Carex athrostachya	Slenderbeaked Sedge	FACW	**X**					**X**	
Carex canescens	Gray Sedge	FACW+	**X**					**X**	
Carex cusickii	Cusick's Sedge	OBL	**X**						
Carex densa	Dense Sedge	OBL	**X**						
Carex deweyana sp. leptopoda	Dewey's Sedge	FACU	**X**	**X**	**X**				
Carex hendersonii	Henderson's Wood Sedge	FAC	**X**		**X**				
Carex obnupta	Slough Sedge	OBL	**X**	**X**				**X**	
Carex pachystachya	Thick-headed Sedge	FACU		**X**	**X**	**X**		**X**	**X**
Carex retrorsa	Knot-sheath Sedge	OBL	**X**						
Carex scoparia									
Carex stipata	Sawbeak Sedge	OBL	**X**						
Carex tumulicola	Foothill Sedge							**X**	
Carex utriculata	Beaked Sedge	OBL	**X**						
Carex vesicaria	Inflated Sedge	OBL	**X**						
Carex vulpinoida	Fox Sedge	OBL	**X**						
Castilleja levisecta*	Golden Indian-Paintbrush*							**X**	
Centaurium muhlenbergii	Muhlenberg's Centaury	FACW	**X**					**X**	**X**
Cephalanthera austiniae	Phantom orchid				**X**	**X**			

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Cerastium arvense	Field Chickweed	FACU						X	
Ceratophyllum demersum	Coontail	OBL	X						
Chamomilla suaveolens	Pineapple Weed	FACU						X	
Chrysoplenium glechomaefolium	Pacific Watercarpet	OBL		X	X				
Cimicifuga elata*	Tall Bugbane*				X		X	X	
Cinna latifolia	Woodreed	FACW	X	X	X			X	
Circaea alpina	Enchanter's Nightshade	FAC+	X		X	X			
Cirsium hallii	Hall's Thistle							X	
Clarkia amoena	Farewell to Spring						X	X	
Clarkia rhomboidea	Common Clarkia						X	X	
Claytonia perfoliata	Miner's Lettuce	FAC		X	X	X	X	X	X
Collinsia grandiflora	Large-flowered Blue-eyed Mary							X	X
Collinsia parviflora	Small-flowered Blue-eyed Mary							X	X
Collinsia rattannii	Rattan Collinsia							X	X
Collomia grandiflora	Large-flowered Collomia							X	
Collomia heterophylla	Varied-leaf Collomia				X		X	X	X

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Comandra umbellata v. californica	Bastard Toadflax	UPL			X		X	X	X
Conyza canadensis v. glabrata	Horseweed	FACU						X	
Coptis laciniata	Cutleaf Goldthread	FAC			X				
Corallorhiza maculata	Pacific Coral-root	UPL			X	X			
Corallorhiza mertensiana	Coral-root				X	X			
Corallorhiza striata	Striped Coral-root	FACU			X	X			
Coreopsis tinctoria v. atkinsoniana	Columbia Tickseed		X	X					
Cornus canadensis	Bunchberry	FAC			X				
Corydalis scouleri	Western Corydalis	FAC+		X	X				
Cryptantha intermedia v. grandiflora	Common Forget-me-not							X	
Cynoglossum grande	Pacific Hound's-tongue				X	X	X		
Cyperus aristatus	Awned Flatsedge		X						
Cyperus erythrorhizos	Red-Rooted Flatsedge		X						
Cyperus strigosus	Straw-Colored Flatsedge		X						
Cypripedium montanum	Mountain Lady-slipper	FACU			X				

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Cystopteris fragilis	Brittle Bladder Fern	FACU			X	X	X		X
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Native Groundcovers D-F.

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Danthonia californica	California Oatgrass	FACU		X				X	X
Delphinium leucophaeum*	Pale Larkspur*	FACU							X
Delphinium menziesii v. pyramidale	Menzies' Larkspur							X	X
Delphinium nuttallii*	Nuttall's Larkspur*							X	
Deschampsia cespitosa	Tufted Hairgrass	FACW	X						
Deschampsia elongata	Slender Hairgrass		X	X					
Dicentra formosa	Pacific Bleedingheart	FACU		X	X	X			
Dicentra formosa sp. Oregana*	Oregon Bleedingheart*			X	X	X			
Dichelostemma congesta	Northern Saitas							X	X
Disporum hookeri	Hooker Fairybell				X	X			

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Disporum smithii	Large-flowered Fairy-bell				X	X			
Dodocatheon dentatum	White Shooting Star	FAC-		X			X		X
Dodecatheon hendersonii	Broad-Leaved Shooting Star							X	X
Dodecatheon pulchellum	Few-flowered Shooting Star	FACW	X						
Downingia elegans	Common Downingia		X						
Draba verna	Spring Whitlowgrass							X	X
Dryopteris arguta	Wood Fern				X				X
Dryopteris expansa	Spreading Wood Fern				X	X			
Eburophyton (see Cephalanthera)									
Elatine triandra	Three-stamen Waterwort	OBL	X	X					
Eleocharis acicularis	Needle Spikerush	OBL	X						
Eleocharis macrostachya	Creeping Spikerush		X						
Eleocharis obtusa v. obtusa	Ovate Spikerush		X						
Elodea nuttallii	Nuttall's Waterweed	OBL	X						
Elymus glaucus	Blue Wildrye	FACU			X	X	X	X	X
Elymus glaucus sp. jepsonii	Jepson's Blue Wildrye				X	X	X	X	
Epilobium angustifolium	Fireweed	FACU+	X	X	X		X	X	
Epilobium ciliatum sp. glandulosum	Common Willow-weed	FACW	X	X	X			X	

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Epilobium ciliatum sp. watsonii	Watson's Willow-weed	FACW-	X	X	X			X	
Epilobium paniculatum v. paniculatum	Tall Annual Willow Herb	UPL			X			X	
Equisetum hyemale	Common Scouring-rush	FACW	X	X					
Erigeron annuus	Annual Fleabane	FACU+						X	
Erigeron decumbens v. decumbens*	Willamette Daisy*							X	
Erigeron philadelphicus	Philadelphia Fleabane	FACU						X	
Eriogonum cf. nudum	Barestem Buckwheat								X
Eriophyllum lanatum	Woolly Sunflower								X
Erysimum capitatum sp. capitatum	Prairie Rocket							X	X
Erythronium oregonum	Giant Fawn-lily				X	X			
Eschscholzia californica	Gold Poppy							X	
Festuca californica	California Fescue				X	X		X	
Festuca occidentalis	Western Fescue-grass			X	X				
Festuca roemeri	Roemer's Fescue						X	X	X
Festuca subulata	Bearded Fescue-grass	FACU+		X	X				

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Festuca subuliflora	Coast Range Fescue-grass			X	X			X	
Fragaria vesca v. bracteata	Wood Strawberry			X	X			X	
Fragaria vesca v. crinita	Wood Strawberry			X	X			X	
Fragaria virginiana v. platypetala	Broadpetal Strawberry	FACU			X			X	
Fritillaria affinis	Checker Lily							X	X
*These plants are identified as rare, threatened, or endangered on the Federal, State, or Oregon Natural Hertiage Program Lists (see Rare, Threatened, and Endangered Plants and Animals of Oregon, Oregon Natural Heritage Program, Portland, Oregon; August 1993).									

Native Groundcovers G-L.

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Galium aparine	Cleavers	FACU			X	X	X	X	
Galium trifidum	Small Bedstraw	FACW+	X						
Galium triflorum	Sweetscented Bedstraw	FACU			X	X			
Gentiana sceptrum	Staff Gentian	OBL	X	X					
Gentianella amarella sp. acuta	Northern Gentian	FACW-		X	X				
Geranium bicknellii	Bicknell's Geranium				X				
Geum macrophyllum	Oregon Avens	FACW-	X	X	X			X	
Gilia capitata	Bluefield Gilia							X	X

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Glyceria elata	Fowl Mannagrass	FACW+	**X**	**X**					
Glyceria occidentalis	NW Mannagrass	OBL	**X**						
Gnaphalium palustre	Marsh Cudweed	FAC+	**X**					**X**	
Goodyera oblongifolia	Giant Rattlesnake-plantain	FACU-			**X**				
Gratiola ebracteata	Bractless Hedge-Hyssop	OBL	**X**	**X**					
Grindelia integrifolia	Willamette Valley Gumweed		**X**	**X**					
Gymnocarpium dryopteris	Oak Fern	FAC			**X**				
Habenaria dilatata	White Bog-orchid	FACW+	**X**						
Habenaria (see also Piperia and Platanthera)									
Heracleum lanatum	Cow-parsnip	FAC+	**X**	**X**	**X**			**X**	
Heterocodon rariflorum	Heterocodon	FAC						**X**	
Heuchera glabra	Smooth Alumroot			**X**	**X**				**X**
Heuchera micrantha	Smallflowered Alumroot			**X**	**X**				**X**
Hieracium albiflorum	White-flowered Hawkweed				**X**			**X**	
Hordeum brachyanrhe-rum	Meadow Barley	NI	**X**	**X**				**X**	
Howellia aquatilis*	Howellia*	OBL	**X**						
Hydrophyllum tenuipes	Pacific Waterleaf				**X**	**X**			

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Hypericum anagalloides	Bog St. John's Wort	OBL	X	X				X	
Hypericum formosum v. scouleri	Western St. John's Wort	FAC-	X					X	
Impatiens capensis	Orange Balsam	FACW	X	X					
Impatiens ecalcarata	Spurless Balsam	FACW	X	X					
Iris tenax	Oregon Iris				X		X	X	
Juncus acuminatus	Tapertip Rush		X						
Juncus articulatus	Jointed Rush		X						
Juncus balticus	Baltic Rush	FACW+	X						
Juncus bolanderi	Bolander's Rush	OBL	X	X					
Juncus bufonius	Toad Rush	FACW	X						
Juncus effusus v. pacificus	Soft Rush	FACW	X						
Juncus ensifolius	Dagger-leaf Rush	FACW	X					X	
Juncus laccatus	Slender Soft Rush	FACW	X						
Juncus oxymeris	Pointed Rush	FACW+	X						
Juncus patens	Spreading Rush			X					
Juncus tenuis	Slender Rush	FACW-	X						
Koeleria macrantha	Junegrass							X	
Lathyrus nevadensis	Nevada Peavine								
Lathyrus polyphyllus	Leafy-pea				X		X		

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Leersia oryzoides	Rice Cutgrass		X						
Ligusticum apiifolium	Parsley-leaved Lovage				X	X	X	X	
Ligustucum grayii	Gray's Lovage					X		X	
Lilium columbianum	Columbia Lily	FAC			X	X	X	X	
Limosella aquatica	Mudwort	OBL	X	X					
Linanthus bicolor	Bicolored Linanthus							X	
Linaria canadensis v. texana	Wild Toadflax		X					X	
Lindernia dubia	Common False-pimpernel	OBL	X	X					
Lindernia dubia v. anagallidea	Slender False-pimpernel	OBL	X	X					
Linnaea borealis	Twinflower	FACU-			X	X			
Listera caurina	Western Twayblade	FACU	X		X	X			
Listera cordata	Heart-leafed Listera	FACU	X		X	X			
Lithophragma parviflorum	Small-Flowered Prairiestar							X	X
Lomatium utriculatum	Common Lomatium								X
Lonicera ciliosa	Trumpet Vine				X				
Lotus denticulatus	Meadow Lotus							X	
Lotus formosissimus	Seaside Lotus	FACW+	X					X	

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Lotus micranthus	Small-flowered Deervetch							X	
Lotus purshiana	Spanish Clover				X				X
Ludwigia palustris	False Loosestrife	OBL	X	X					
Lupinus bicolor	Two-color Lupine							X	
Lupinus latifolius	Broadleaf Lupine							X	
Lupinus laxiflorus	Spurred Lupine							X	
Lupinus lepidus	Prairie Lupine							X	
Lupinus micranthus	Field Lupine							X	
Lupinus microcarpus	Chick Lupine							X	
Lupinus polyphyllus	Large-leaved Lupine	FAC+						X	
Lupinus rivularis	Stream Lupine	FACU		X	X				
Lupinus sulphureaus	Sulfer Lupine							X	
Luzula campestris v. congesta	Field Woodrush	NI			X		X	X	
Luzula parviflora	Small-flowered Woodrush	FAC-			X	X	X		
Lycopus americanus	Cut-leaved Bugleweed	OBL	X	X					
Lycopus uniflorus	Northern Bugleweed	OBL	X	X					
Lysichitum americanum	Skunk Cabbage	OBL	X	X					

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Lysimachia ciliata	Fringed Loosestrife	FACW+	X					X	
Lysimachia thyrsiflora	Tufted Loosestrife	OBL	X						
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Native Groundcovers M-O.

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Madia glomerata	Cluster Tarweed	FACU+						X	
Madia gracilis	Slender Tarweed							X	X
Madia sativa	Chile Tarweed							X	
Maianthemum dilatatum	False Lily-of-the-valley	FAC			X	X			
Marah oreganus	Manroot						X	X	
Matricaria (see Chamomilla)									
Melica bulbosa	Oniongrass	FACU							X
Melica geyeri	Geyer's Oniongrass				X	X			
Melica subulata	Alaska Oniongrass				X		X		
Mentha arvensis v. glabrata	Field Mint	FACW-		X					
Menyanthes trifoliata	Buckbean	OBL	X					X	
Mertensia platyphylla	Western Bluebells			X	X				

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Microsteris (see Phlox)									
Mimulus alsinoides	Chickweed Monkey-flower	OBL	**X**	**X**					**X**
Mimulus guttatus	Yellow Monkey-flower	OBL	**X**	**X**				**X**	**X**
Mimulus moschatus	Musk-flower	FACW+	**X**	**X**					
Mitella caulescens	Leafy Mitrewort				**X**	**X**		**X**	
Mitella pentandra	Five-stamened Mitrewort	FAC		**X**	**X**	**X**		**X**	
Moehringia macrophylla	Bigleaf Sandwort				**X**	**X**			
Monotropa uniflora	Indian-pipe	FACU			**X**				
Montia dichotoma	Dwaft Montia	FAC	**X**					**X**	**X**
Montia diffusa*	Branching Montia*				**X**				
Montia fontana	Water Chickweed	OBL	**X**	**X**				**X**	**X**
Montia linearis	Narrow-leaved Montia				**X**			**X**	**X**
Montia parvifolia	Streambank Springbeauty	FACW-	**X**		**X**				**X**
Montia perfoliata	Miner's Lettuce				**X**	**X**	**X**		
Montia (see also Claytonia)									
Montia sibirica	Candy Flower	FAC		**X**	**X**	**X**	**X**	**X**	
Myosotis laxa	Small-flowered Forget-me-not	OBL	**X**	**X**					
Navarretia intertexta	Needle-Leaf Navarretia		**X**					**X**	

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Navarretia squarrosa	Skunkweed							X	
Navarretia tagetina	Northern Navarretia		X						
Nemophila menziesii	Baby Blue-eyes				X	X			
Nemophila parviflora	Small-flowered Nemophila				X	X			
Nemophila pedunculata	Spreading Nemophila		X	X					
Nothochelone nemorosa	Turtle Head				X				X
Nuphar luteum sp. polysepalum	Yellow Water-lily	OBL	X						
Oenanthe sarmentosa	Pacific Water-parsley	OBL	X	X					
Oenothera biennis	Evening Primrose							X	
Olsynium douglasii	Grass-Widows		X				X		
Oplopanax horridus	Devil's Club	FAC+		X	X	X	X		
Orobanche uniflora	Naked Broomrape	FACU							X
Orthocarpus hispidus	Hairy Owl-Clover	FACU-						X	
Osmorhiza chilensis	Mountain Sweet-root				X	X			
Oxalis oregana	Oregon Oxalis				X	X			
Osalis suksdorfii	Western Yellow Oxalis				X				
Oxalis trilliifolia	Trillium-leaved Wood-sorrel	FAC+		X	X	X		X	

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
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Native Groundcovers P-R.

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Panicum capillare	Old-witch Grass	FACU+	X	X					
Paspalum distichum	Knotgrass	FACW							
Penstemon ovatus	Broad-leaved Penstemon			X					
Penstemon richardsonii	Cut-leaved Penstemon								X
Penstemon serrulatus	Cascade Penstemon	FACU	X					X	X
Petasites frigidus v. palmatus	Sweet Coltsfoot	FACW-	X	X	X			X	
Phacelia nemoralis	Shade Phacelia				X		X		
Phlox gracilis	Microsteris	FACU						X	X
Piperia elegans	Elegant Rein-orchid			X			X	X	
Piperia unalascensis	Alaska Rein-orchid				X	X			
Pentogramma triangularis	Gold-back Fern								X
Plagiobothrys figuratus	Fragrant Plagiobothrys	FACW						X	
Platanthera stricta	Slender Bog-orchid		X						

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Plectritis congesta	Rosy Plectritis	FACU						**X**	**X**
Poa compressa	Canada Bluegrass	FACU+			**X**			**X**	
Poa grayana	Gray's Bluegrass	FACU		**X**				**X**	
Poa howellii	Howell's Bluegrass							**X**	
Polygonum aviculare	Doorweed	FACW-	**X**	**X**				**X**	
Polygonum douglasii	Douglas' Knotweed	FACU		**X**				**X**	
Polygonum douglasii sp. spergulariiforme	Fall Knotweed			**X**					
Polygonum hydropiperoides	Common Waterpepper	OBL	**X**						
Polygonum polygaloides sp. kelloggii	Kellogg's Knotweed	FAC	**X**	**X**				**X**	
Polygonum nuttallii	Nutall's Knotweed							**X**	
Polygonum persicaria	Lady's Thumb	FACW	**X**						
Polygonum punctatum*	Dotted Smartweed*	OBL	**X**						
Polypodium glycyrrihiza	Licorice Fern			**X**	**X**	**X**	**X**		**X**
Polystichum munitum	Sword Fern	FACU			**X**	**X**	**X**		
Potamogeton natans	Broad-leaved Pondweed	OBL	**X**						
Potentilla glandulosa	Sticky Cinquefoil	FAC-			**X**			**X**	
Potentilla gracilis v. gracilis	Slender Cinquefoil							**X**	

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Potentilla palustris	Marsh Cinquefoil	OBL	X						
Prosartes hookeri	Hooker's Fairybells				X	X	X		
Prosartes smithii	Smith Fairybells				X	X	X		
Prunella vulgaris v. lanceolata	Heal-all	FACU+		X				X	
Psoralea (see Rupertia)									
Pteridium aquilinum	Bracken Fern	FACU			X		X	X	
Pyrola asarifolia	Wintergreen	FACU		X	X				
Pyrola picta	White-Vein Pyrola				X	X	X		
Ranunculus alismaefolius	Water-plaintain Buttercup	FACW	X	X				X	
Ranunculus aquatilis v. hispidulus	White Water-plantain Buttercup	OBL	X						
Ranunculus cymbalaria	Shore Buttercup	OBL	X	X					
Ranunculus flammula	Creeping Buttercup	FACW	X	X				X	
Ranunculus macounii v. oreganus	Macoun's Buttercup	OBL	X					X	
Ranunculus occidentalis	Western Buttercup	FAC	X				X	X	
Ranunculus orthorhyncus	Straightbeak Buttercup	FACW-	X	X				X	
Ranunculus pensylvanicus	Pennsylvania Buttercup	FACW	X	X					
Ranunculus scleratus	Celery-leaved Buttercup	OBL	X	X					

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Ranunculus uncinatus	Little Buttercup	FAC		X				X	
Rorippa columbiae*	Columbia Cress*	OBL	X	X				X	
Rubus ursinus	Pacific Blackberry	FACU		X	X	X	X	X	X
Rumex obtusifolius	Bitter Dock	FAC						X	
Rumex occidentalis	Western Dock	FACW+	X					X	
Rupertia physodes	California Tea								
Rumex salicifolius v. salicifolius	Willow-leaved Rumex		X						
*These plants are identified as rare, threatened, or endangered on the Federal, State, or Oregon Natural Hertiage Program Lists (see Rare, Threatened, and Endangered Plants and Animals of Oregon, Oregon Natural Heritage Program, Portland, Oregon; August 1993).									

Native Groundcovers S-Z.

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Sagina decumbens sp. occidentalis	Western Pearlwort	FACU+						X	
Sagittaria latifolia	Wapato	OBL	X						
Sanguisorba occidentalis	Annual Burnet							X	
Sanicula bipinnatafida	Purple Sanicle							X	X
Sanicula crassicaulis	Pacific Sanicle				X	X			

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Satureja douglasii	Yerba buena				**X**	**X**	**X**		
Saxifraga ferruginea	Rusty Saxifrage	FAC		**X**					**X**
Saxifraga integrifolia	Swamp Saxifrage	NI	**X**					**X**	**X**
Saxifraga mertensiana	Merten's Saxifrage	FACW	**X**		**X**	**X**			**X**
Saxifraga nuttallii	Nuttall's Saxifrage	OBL	**X**		**X**	**X**			**X**
Saxifraga occidentalis v. rufidula	Western Saxifrage	FAC						**X**	**X**
Saxifraga oregana	Oregon Saxifrage		**X**						**X**
Scirpus acutus	Hardstem Bulrush	OBL	**X**						
Scirpus americanus	American Bulrush	OBL	**X**						
Scirpus cyperinus	Wooly Sedge		**X**	**X**					
Scirpus microcarpus	Small-fruited Bulrush	OBL	**X**		**X**		**X**		
Scirpus tabernaemonti	Softstem Bulrush	OBL	**X**						
Scoliopus hallii	Oregon Fetid Adder's-tongue				**X**				
Scrophularia californica	California Figwort	FACW-	**X**						
Sedum oreganum	Oregon Stonecrop								**X**
Sedum spathulifolium	Spatula-leaf Stonecrop								**X**
Selaginella douglasii	Douglas' Selaginella				**X**	**X**			**X**

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Senecio bolanderi v. harfordii	Bolander's Groundsel				X	X			
Sidalcea campestris*	Meadow Sidalcea*	NI						X	
Sidalcea nelsoniana*	Nelson's Checker-mallow*	FAC						X	
Silene antirrhina	Sleepy Catchfly							X	
Sisyrinchium angustifolium	Blue-eyed Brass	FACW-	X					X	
Smilacina racemosa	Western False Solomon's Seal	FAC-	X		X	X	X		
Smilacina stellata	Starry False Solomon's Seal	FAC-			X	X	X	X	
Solidago canadensis	Canada Goldenrod	FACU						X	
Sparganium emersum v. emersum	Simplestem Bur-reed	OBL	X						
Spiranthes romanzoffiana	Ladies-tresses	FACW	X					X	
Spirodela polyrhiza	Great Duckweed	OBL	X						
Stachys cooleyae	Cooley's Hedge-nettle	FACW	X	X					X
Stachys ajugoides v. rigida	Great Betony	FACW	X	X				X	
Stachys palustris v. pilosa	Swamp Hedge-nettle	FACW+	X					X	
Stellaria crispa	Crisped Starwort	FAC+	X					X	

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Streptopus amplexifolius	Clasping-leaved Twisted-Stalk	FAC-		X	X	X			
Sullivantia oregana*	Sullivantia*			X					X
Synthyris reniformis	Snow Queen				X	X	X		
Tellima grandiflora	Fringecup				X	X			
Teucrium canadense v. occidental	Wood Sage	FAC+	X	X					
Thalictrum occidentale	Western Meadowrue	FACU		X	X			X	
Tiarella trifoliata	Laceflower	FAC-		X	X	X			
Tiarella trifoliata v. unifoliata	Trefoil Tiarella			X	X	X			
Tolmiea menziesii	Pig-a-back	FAC		X	X	X			
Tonella tenella	Small-flowered Tonella							X	X
Trichostema lanceolatum	Mt. Blue-Curls							X	X
Trientalis latifolia	Western Starflower	FAC-			X	X			
Trifolium bifidum	Pinole Clover							X	
Trifolium eriocephalum	Wooly Head Clover							X	
Trifolium microcephalum	Small-Head Clover							X	
Trifolium microdon	Thimble Clover							X	

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Trifolium oliganthum	Few-Flowered Clover							X	
Trifolium tridentatum	Sand Clover							X	
Trifolium variegatum	White-tip clover							X	
Trillium chloropetalum	Giant Trillium				X	X			
Trillium ovatum	Western Trillium	FACU		X	X	X			
Triodanis perfoliata	Venus' Looking-glass	UPL						X	
Trisetum canescens	Tall Trisetum			X	X				
Trisetum cernuum	Nodding Trisetum	FACU	X	X	X				
Typha latifolia	Common Cattail	OBL	X						
Urtica dioica	Stinging Nettle	FAC+	X	X	X	X			
Vancouveria hexandra	White Inside-out Flower			X	X	X		X	
Veratrum californicum	False Hellebore	FACW+	X	X				X	
Verbena hastata*	Wild Hyssop*	FAC+	X					X	
Veronica americana	American Brooklime	OBL	X	X				X	
Vicia americana	American Vetch	FAC			X			X	
Vicia gigantea	Giant Vetch				X				
Viola adunca	Early Blue Violet	FAC						X	
Viola glabella	Stream Violet	FACW+	X	X	X	X			
Viola hallii	Hall's Violet	FAC			X	X		X	

Scientific Name	Common Name	Indicator Status	Habitat Type						
			Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Viola howellii	Howell's Violet				X			X	
Viola palustris	Marsh Violet	OBL	X					X	
Viola praemorsa v. praemorsa	Canary Violet							X	
Viola sempervirens	Evergreen Violet				X	X			
Whipplea modesta	Yerba de Selva				X				
*These plants are identified as rare, threatened, or endangered on the Federal, State, or Oregon Natural Hertiage Program Lists (see Rare, Threatened, and Endangered Plants and Animals of Oregon, Oregon Natural Heritage Program, Portland, Oregon; August 1993).									

Native Shrub List.

Native Plant List—Shrubs										
Scientific Name	Common Name	Fire Accelerant? *+	Indicator Status	Habitat Type						
				Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Amelanchier alnifolia	Western Serviceberry	N	FACU			X	X	X		
Arctostaphylos columbiana	Hairy Manzanita	Y							X	X
Arctostaphylos uvaursi	Kinnikinnick	Y	FACU-						X	X
Berberis aquifolium	Tall Oregongrape	Y				X	X			
Berberis nervosa	Dull Oregongrape	Y				X	X			
Ceanothus cuneatus		Y				X	X	X		
Ceanothus sanguineus	Oregon Tea-tree	Y	UPL			X	X	X	X	

Native Plant List—Shrubs										
Scientific Name	**Common Name**	**Fire Accelerant? *+**	**Indicator Status**	**Habitat Type**						
				Wetland	**Riparian**	**Forest**	**F. Slope**	**Thicket**	**Grass**	**Rocky**
Ceanothus velutinus v. laevigatus	Mountain Balm	Y				**X**		**X**	**X**	
Cornus sericea sp. sericea	Red-osier Dogwood	N	FACW	**X**	**X**			**X**		
Corylus cornuta	Hazelnut	N	FACU			**X**	**X**	**X**		
Euonymus occidentalis	Western Wahoo	N			**X**	**X**				
Gaultheria shallon	Salal	Y	FACU			**X**	**X**			
Holodiscus discolor	Ocean-spray	N				**X**	**X**	**X**		
Lonicera hispidula	Hairy Honeysuckle	N				**X**		**X**		
Lonicera involucrata	Black Twinberry	N	FAC+	**X**	**X**				**X**	
Mahonia (see Berberis)										
Oemleria cerasiformis	Indian Plum	N	FACU		**X**	**X**	**X**	**X**		
Philadelphus lewisii	Mockorange	N				**X**	**X**	**X**		
Physocarpus capitatus	Pacific Ninebark	N	FACW-		**X**	**X**		**X**		
Rhus (see Toxicodendron)										
Ribes bracteosum	Blue Currant	N	FAC		**X**	**X**				
Ribes divaricatum	Straggly Gooseberry	N	FAC			**X**	**X**			
Ribes lobbii	Pioneer Gooseberry	N				**X**		**X**	**X**	

Native Plant List—Shrubs										
Scientific Name	Common Name	Fire Accelerant? *+	Indicator Status	Habitat Type						
				Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Ribes sanguineum	Red Currant	N			X	X	X	X	X	
Ribes viscosissimum	Sticky Currant	N	FAC		X	X				
Rosa gymnocarpa	Baldhip Rose	N	FACU			X	X			
Rosa nutkana v. nutkana	Nootka Rose	N	FAC				X			
Rosa pisocarpa	Swamp Rose	N	FAC		X		X			
Rubus leucodermis	Blackcap Raspberry	N				X	X	X		
Rubus ursinus v. macropetalus	Dewberry	N	NI		X	X	X			
Rubus parviflorus	Thimbleberry	N	FAC-		X	X	X			
Rubus spectabilis	Salmonberry	N	FAC+		X					
Sambucus cerulea	Blue Elderberry	N	FACU		X	X				
Sambucus racemosa	Red Elderberry	N	FACU		X	X	X			
Spiraea betulifolia v. lucinda	Shiny-leaf Spiraea	N	FAC		X			X		X
Spiraea douglasii	Douglas's Spiraea	N	FACW	X	X			X		
Symphoricarpos albus	Common Snowberry	N	FACU			X	X	X		
Symphoricarpos mollis	Creeping Snowberry	N				X		X		

Native Plant List—Shrubs										
Scientific Name	Common Name	Fire Accelerant? *+	Indicator Status	Habitat Type						
				Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Vaccinium ovatum	Evergreen Huckleberry	Y					X			
Vaccinium parvifolium	Red Huckleberry	N					X	X		
Viburnum ellipticum	Oval-leaved Viburnum	N					X		X	
* Fire Accelerant Y: plans with higher than average flammable combustion potential due to flammability chemicals present within the leaves, needles, and stems; Fire accelerant N (nuetral): plants with average flammable combustion potential (There are no chemicals present within the stems, leaves, and needles that make it less flammable or more flammable than average).										
+ Riccardi, et al. In Press. Quantifying physical characteristics of wildland fuels in the Fuel Characteristic Classification System. Canadian Journal of Forest Research.										

Native Tree List.

Native Plant List—Trees and Arborescent Shrubs										
Scientific Name	Common Name	Fire Accelerant? *+	Indicator Status	Habitat Type						
				Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Arborescent Shrubs										
Plants with an [a] are arborescent (tree-like) shrubs.										
Acer circinatum[a]	Vine Maple	N	FAC-			X	X		X	
Malus fusca[a]	Western Crabapple	N	FACW		X	X		X		
Prunus virginiana[a]	Common Chokecherry	N	FACU		X	X		X		
Salix fluviatilis[a]	Columbia River Willow	N	OBL	X	X					
Salix hookeriana[a]	Piper's Willow	N	FACW	X	X					

Native Plant List—Trees and Arborescent Shrubs										
Scientific Name	Common Name	Fire Accelerant? *+	Indicator Status	Habitat Type						
				Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Salix sessilifolia[a]	Soft-leaved Willlow	N	FACW	X	X					
Salix sitchensis[a]	Sitka Willow	N	FACW	X	X					
Trees										
Abies grandis	Grand Fir	Y	FACU-	X	X	X	X			
Acer macrophyllum	Big-leaf Maple	N	FACU			X	X			
Alnus rubra	Red Alder	N	FAC		X	X	X			
Arbutus menziesii	Madrone	N				X				
Cornus nuttallii	Western Flowering Dogwood	N				X	X			
Crataegus suksdorfii	Black Hawthorn	N	FAC	X	X	X	X	X		
Fraxinus latifolia	Oregon Ash	N	FACW	X	X					
Pinus ponderosa	Ponderosa Pine	Y	FACU-			X	X			
Populus balsamifera sp. trichocarpa	Black Cottonwood	N	FAC	X	X					
Populus tremuloides	Quaking Aspen	N		X	X					
Prunus emarginata	Bitter Cherry	N	FACU		X		X	X		
Pseudotsuga menziesii	Douglas Fir	Y	FACU			X	X			
Pyrus (see Malus)		N								

Native Plant List—Trees and Arborescent Shrubs										
Scientific Name	Common Name	Fire Accelerant? *+	Indicator Status	Habitat Type						
				Wetland	Riparian	Forest	F. Slope	Thicket	Grass	Rocky
Quercus garryana	Garry Oak	N				X	X		X	
Rhamnus purshiana	Cascara	N	FAC-		X	X	X			
Salix lucida sp. lasiandra	Pacific Willow	N	FACW+	X	X					
Salix rigida v. macrogemma	Rigid Willow	N	OBL	X	X					
Salix scouleriana	Scouler Willow	N	FAC	X	X	X				
Taxus brevifolia	Pacific Yew	Y	NI		X	X	X			
Thuja plicata	Western Red Cedar	Y	FAC	X	X	X	X			
Tsuga heterophylla	Western Hemlock	Y	FACU-		X	X	X			

* Fire Accelerant Y: plans with higher than average flammable combustion potential due to flammability chemicals present within the leaves, needles, and stems; Fire accelerant N (nuetral): plants with average flammable combustion potential (There are no chemicals present within the stems, leaves, and needles that make it less flammable or more flammable than average).

+ Riccardi, et al. In Press. Quantifying physical characteristics of wildland fuels in the Fuel Characteristic Classification Syste. Canadian Journal of Forest Research.

Nuisance Plant List.

Plants on this list can be removed without further City review; other local, state, or federal laws may still regulate removal of certain plants on this list. These plants may be native, naturalized, or exotic. They are divided into two groups — plants which are considered a nuisance because of their tendency to dominate plant communities, and plants which are considered harmful to humans.

Nuisance Plant List		
Scientific Name	Common Name	Indicator Status
Acer platanoides	Norway maple	NI

Nuisance Plant List		
Scientific Name	**Common Name**	**Indicator Status**
Acroptilon repens	Russian knapweed	
Aegopodium podagraria and variegated varieties	Goutweed	
Agropyron repens	Quack grass	
Ailanthus altissima	Tree-of-heaven	NI
Alliaria officinalis	Garlic Mustard	
Alopecuris pratensis	Meadow foxtail	
Anthoxanthum odoratum	Sweet vernalgrass	
Arctium minus	Common burdock	
Arrhenatherum elatius	Tall oatgrass	
Bambusa sp.	Bamboo	
Betula pendula lacinata	Cutleaf birch	
Brachypodium sylvaticum	False brome	
Bromus diandrus	Ripgut	
Bromus hordeaceus	Soft brome	
Bromus inermis	Smooth brome-grasses	
Bromus japonicus	Japanese brome-grass	
Bromus sterilis	Poverty grass	
Bromus tectorum	Cheatgrass	
Buddleia davidii (except cultivars and varieties)	Butterfly bush	
Callitriche stagnalis	Pond water starwort	
Cardaria draba	Hoary cress	
Carduus acanthoides	Plumeless thistle	
Carduus nutans	Musk thistle	
Carduus pycnocephalus	Italian thistle	
Carduus tenufolius	Slender flowered thistle	
Centaurea biebersteinii	Spotted knapweed	
Centaurea diffusa	Diffuse knapweed	
Centaurea jacea	Brown knapweed	
Centaurea pratensis	Meadow knapweed	
Chelidonium majou	Lesser celandine	
Chicorum intybus	Chicory	
Chondrilla juncea	Rush skeletonweed	

Nuisance Plant List		
Scientific Name	**Common Name**	**Indicator Status**
Cirsium arvense	Canada thistle	FACU+
Cirsium vulgare	Common thistle	FACU
Clematis ligusticifolia	Western clematis	FAC-
Clematis vitalba	Traveler's joy	
Convolvulus arvensis	Field Morning-glory	
Convolvulus seppium	Lady's-nightcap	
Cortaderia selloana	Pampas grass	
Crataegus sp. except suksdorfii	Hawthorn, except native species	
Daucus carota	Queen Anne's lace	
Dipsaucus fullonum	Common teasel	
Egeria densa	South American waterweed	OBL
Elodea densa	South American waterweed	
Equisetum arvense	Common horsetail	FAC
Equisetum telemateia	Giant horsetail	FACW
Erodium cicutarium	Crane's bill	
Euphorbia lathyrus	Mole plant	
Festuca arundinacea	Tall fescue	
Foeniculum vulgare	Fennel	
Galium odoratum	Sweet woodruff	
Geranium lucidum	Shining geranium	
Geranium robertianum	Robert geranium	
Geum urbanum	European avens	
Heracleum mantegazzianum	Giant hogweed	
Hieracium aurantiacum	Orange hawkweed	
Hieracium cespitosum	Yellow hawkweed	
Hieracium laevigatum	Smooth hawkweed	
Hieracium pilosella	Mouse-ear hawkweed	
Holcus lanatus	Velvet grass	
Houttuynia cordata	Chameleon plant	
Hydrilla verticillata	Hydrilla	
Hypericum perforatum	St. John's wort	
Hypocharis radicata	Spotted cat's ear	

Nuisance Plant List		
Scientific Name	**Common Name**	**Indicator Status**
Ilex aquafolium	English holly	
Impatiens glandulifera	Policemen's helmet	
Iris pseudacorus	Yellow flag	OBL
Juncus effusus v. effusus	European soft rush	
Lactuca muralis	Wall lettuce	
Lactuca serriola	Prickly lettuce	
Lamium maculatum	White Nancy	
Lapsana communis	Nipplewort	
Lemna minor	Duckweed, water lentil	OBL
Leontodon autumnalis	Fall dandelion	FAC
Leucanthemum vulgare	Oxeye daisy	
Ligustrum vulgare	Privet	
Linaria dalmatica sp. dalmatica	Dalmation toadflax	
Linaria vulgaris	Yellow toadflax	
Lolium multiflorum	Annual ryegrass	
Lotus corniculatus	Bird’s foot trefoil	
Ludwigia hexapetala	Water primrose	
Lunaria annua	Money plant	
Lychnis alba	White campion	
Lysimachia nummularia	Creeping jenny	
Lythrum portula	Spatula leaf purslane	
Melilotus alba	Sweetclover	
Melilotus officinalis	Yellow sweetclover	
Melissa officianalis	Lemon balm	
Mentha pulegium	Penny royal	
Myriophyllum aquaticum	Parrots feather	
Myriophyllum spicatum	Eurasian watermilfoil	OBL
Nymphaea odorata	Fragrant water lily	
Onopordum acanthium	Scotch thistle	
Panicum capillare	Witchgrass	
Parentucellia viscosa	Parentucellia	
Paulownia tomentosa	Princess tree	

Nuisance Plant List		
Scientific Name	**Common Name**	**Indicator Status**
Phalaris aquatica	Harding grass	
Phleum pratensis	Timothy grass	
Phragmites australis	Common reed	
Phytolacca americana	Pokeweed	
Poa annua	Annual bluegrass	FAC
Polygonum aviculare	Doorweed	
Polygonum coccineum	Water smartweed	OBL
Polygonum convolvulus	Climbing bindweed	FACU-
Polygonum cuspidatum	Japanese knotweed	
Polygonum polystachyum	Himalayan knotweed	
Polygonum sachalinense	Giant knotweed	FACU
Populus alba	White poplar	
Potamogeton crispus	Curly leaf pondweed	
Prunus avium (except cultivars and varieties)	Sweet cherry	
Prunus laurocerasus	English, Portugese laurel	
Pueraria lobata	Kudzu	
Ranunculus ficaria	Lesser celandine	
Ranunculus repens	Creeping buttercup	
Robinia pseudoacacia (except cultivars and varieties)	Black locust	
Rorippa nasturtium-aquaticum	European watercress	
Rosa eglanteria	Sweet briar	
Rosa multiflora	Multiflora rose	
Rubus laciniatus	Evergreen blackberry	FACU+
Rumex acetosella	Red sorrel	
Rumex crispus	Curly dock	
Secale cerale	Cultivated rye	
Senecio jacobaea	Tansy ragwort	FACU
Silene alba	White campion	
Silybum marianum	Blessed milk thistle	
Sisyrimbium officinale	Hedge mustard	
Solanum dulcamara	Blue bindweed	FAC+
Solanum sarrachoides	Hairy nightshade	

Nuisance Plant List		
Scientific Name	**Common Name**	**Indicator Status**
Sonchus arvensis sp. arvensis	Perennial sowthistle	
Sorbus aucuparia (except cultivars and varieties)	European mountain ash	
Sorghum halepense	Johnson grass	
Taeniatherum caput-medusa	Medusahead	
Tanacetum vulgare	Common tansy	
Taraxacum officinale	Common dandelion	FACU
Trifolium arvense	Hare's foot clover	
Trifolium hybridum	Alsike clover	
Trifolium repens	White clover	
Trifolium subterraneum	Subterraneum clover	
Ulex europaeus	Gorse	
Ulmus pumila	Siberian elm	
Utricularia inflata	Swollen bladderwort	
Utricularia vulgaris	Common bladderwort	
Verbascum blattaria	Moth mullein	
Verbascum thapsus	Mullein	
Verbena bonariensis	Tall verbena	
Vicia cracca	Tufted vetch	
Vicia sativa	Common vetch	
Vicia villosa	Hairy vetch	
Vinca major	Periwinkle (large leaf)	
Vinca minor	Periwinkle (small leaf)	
Vulpia myuros [Festuca myuros]	Rat-tailed fescue	
Xanthium spinoseum	Spiny cocklebur	FACU
Nuisance Plant List—Harmful Plants		
Conium maculatum	Poison-hemlock	FACW-
Laburnum watereri	Golden chain tree	
Rhus diversiloba	Poison oak	
Solanum nigrum	Garden nightshade	FACU

Prohibited Plant List.

Prohibited Plant List		
The Prohibited Plants section is a listing of plants which the City of Portland prohibits being used in all reviewed lanscaping situations withing the City limits. This provision applies to the below named species only, and includes any sub-species, varieties, or cultivars of these species. Additional plant species are prohibited by adopted land use plans in specific areas or situations.		
Scientific Name	**Common Name**	**Indicator Status**
Cytisus scoparius	Scotch broom	
Hedera helix	English ivy	
Lythrum salicaria	Purple loosestrife	FACW+
Phalaris arundinacea	Reed canarygrass	FACW
Rubus discolor	Himalayan blackberry	FACU