Draft Amendments to the Land Development Code
12.1.2026 DRAFT

CHAPTER 16.12 DEFINITIONS

16.12.030. Definitions.

Accessible unit. A unit of housing that complies with the "Type A" requirements applicable to units as set forth in the Standard for Accessible and Usable Buildings and Facilities published by the International Code Council and as referenced by the state building code.

Affordable unit. An affordable middle housing unit is a unit of housing that is subject to an affordable housing covenant, as described in ORS 456.270 to 456.295, that:

A. Makes the unit available to purchase for a maximum sales price and requires that the unit be purchased by a household with an income below 120 percent of median income, with both the maximum price and income threshold as published per region on an annual basis by the division of the Oregon Department of Administrative Services that serves as office of economic analysis; and

B. Is enforceable for a duration of not less than 10 years from the date of the certificate of occupancy.

Child care center. Any of the following:

A. Child care facility, other than a family child care home, that is certified under ORS 329A.280 (3);

B. Preschool recorded program or school-age recorded program recorded under ORS 329A.255; or

C. Parent cooperative, as defined in ORS 329A.250.

~~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 50% of the length of the side of the dwelling.~~

Dwelling, four-family (quadplex). ~~A building containing four dwelling units on a single lot. The units must comply with the definition of an attached structure and share a common wall of at least 20 feet in width or common floor/ceiling of at least 20 feet in width. None of the units may be attached by hallways, storage areas, breezeways, "I" beams, roofs, decks or stairways or contain an accessory dwelling unit.~~ **Four attached or detached dwellings in any configuration on a lot or parcel, other than a lot or parcel created by a middle housing land division.**

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.~~ **Five or more dwellings on a lot or parcel.** Multifamily does not include ~~cottage cluster~~ **middle** housing. Multifamily dwellings include condominiums and apartment units without regard to ownership status. Ancillary uses associated with residential development and within the same tenant space as the residential use such as lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity spaces or live-work spaces are considered part of the residential use.

Dwelling, single-family attached (townhouse**, townhome** or rowhouse). ~~A dwelling, located on its own lot excluding an accessory dwelling unit, which shares one or more common or abutting walls of at least 20 feet in width with one or more other dwellings on another lot. A single-family attached dwelling does not share common floors or ceiling with other dwellings.~~ **A dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit.**

Dwelling, single-family detached (house). A detached dwelling on a single lot **or parcel, other than a lot or parcel created by a middle housing land division, on which only one dwelling exists, except that the lot or parcel may also include** ~~excluding~~ an accessory dwelling unit **where permitted**.

Dwelling, three-family (triplex). ~~A building containing three dwelling units on a single lot. The units must comply with the definition of an attached structure and share a common wall of at least 20 feet in width or common floor/ceiling of at least 20 feet in width. None of the units may be attached by hallways, storage areas, breezeways, "I" beams, roofs, decks or stairways or contain an accessory dwelling unit.~~ **Three attached or detached dwellings in any configuration on a lot or parcel, other than a lot or parcel created by a middle housing land division.**

Dwelling, two-family (duplex). ~~A building containing two dwelling units on one lot. The units must comply with the definition of an attached structure and share a common wall of at least 20 feet in width or common floor/ceiling of at least 20 feet in width. None of the units may be attached by hallways, storage areas, breezeways, "I" beams, roofs, decks or stairways or contain an accessory dwelling unit.~~ **Two attached or detached dwellings in any configuration on a lot or parcel, other than a lot or parcel created by a middle housing land division.**

Family child care home. A child care facility in a dwelling that is caring for not more than 16 children and is certified under ORS 329A.280 (2) or is registered under ORS 329A.330.

Flexible design review. An optional, alternative design review process which provides additional public participation opportunities in the land use process with flexibility as an incentive to the extent feasible and is based on discretionary criteria.

Flexible land division. An optional, alternative land division process which provides additional public participation opportunities in the land use process with flexibility as an incentive to the extent feasible and is based on discretionary criteria.

Interior parking lot landscaping. Landscaping located inside the surfaced area used for on-site parking and maneuvering.

Middle housing. Means duplexes, triplexes, quadplexes, cottage clusters ~~and~~ **or** townhouses. **Includes dwelling units that are:**

(i) Additional units allowed under ORS 197A.421; and

(ii) Existing dwelling units to which additional units are added under subsection (4) of ORS 197A.420.

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.~~ **A partition or subdivision of a lot or parcel on which the development of middle housing is allowed under ORS 197A.420 (2) or (3) or 197A.421, as described in ORS 92.031.**

Most architecturally significant. The entrance or façade of a building containing the greatest number of architectural features, where an "architectural feature" is a building entrance, window or other opening, change in wall plane, roofline variation, projection or recess, or change in exterior building material. If two or more entrances or façades contain an equal number of such features, each shall be considered the most architecturally significant.

Perimeter parking lot landscaping. Landscaping within the minimum 10 foot area adjacent to the outside of the parking lot.

Primary Entrance. The entrance on the most architecturally significant facade. If there is more than one entrance on the most architecturally significant façade, the primary entrance shall be the most architecturally significant entrance on that façade.

Residential facility/group care facility. ~~A residence for six to 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.~~ **A residential care or residential training facility, as those terms are defined in ORS 443.400, that provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.**

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.~~ **A residential treatment or training home, as defined in ORS 443.400, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443. to 443.825 that provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.**

CHAPTER 16.22
RESIDENTIAL LAND USE DISTRICTS

§ 16.22.010. Future urbanization zone.

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.~~ **One single-family dwelling, townhouse[2], duplex[2], triplex[2], quadplex[2], cottage cluster[2], modular dwelling unit, or manufactured home per lot[1]** ~~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 home	**P**
Residential ~~care facilities~~ **facility**	~~C~~**X**
Crisis stabilization center or mental or psychiatric hospital	**X/P[3]**
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-	C

obscuring skirting around the entire circumference of the manufactured home.	
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
~~Commercial daycare facilities~~ **Child care center**	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

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.] Allowed on a lot or parcel which is vacant or contains one of the following: one single-unit dwelling, one single-unit dwelling plus an accessory dwelling unit, or a duplex.

[3.] Allowed if required per ORS 197A.386.

[…]

E. ~~Adjustments to Dimensional~~ **Development** 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 10% 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 10% of the applicable dimensional standard of this subsection, the criteria shall be the purpose provisions of subsection (D)(1) through (3) of this section.~~ **The development standards in Table 16.22.010-2 apply to all uses, structures, buildings, and development in the FU-10 District.**

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)~~ **Lot size (minimum): Single-family detached, duplex, triplex, quadplex, or cottage cluster**	10 acres
Lot size (minimum): Townhouse	**1,500 sq. ft.**
Lot width (minimum)[2]	100 feet
Lot depth (minimum)[2]	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
Garage and carport entrances	**22 feet**
Cottage cluster, front	**10 feet**
Cottage cluster, rear	**10 feet**
Cottage cluster, interior side	**10 feet**
Cottage cluster, street side	**10 feet**
Building height (maximum)	45 feet~~2~~**1**

NOTES:

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

~~2~~**1** The single-family residential building height maximum is 45 feet at the front elevation; side and rear elevations may not exceed 49 feet.

[2]Does not apply to townhouses.

16.22.020. Very low density residential zones.

A. ~~Purpose.~~ **Very low density residential zones include R-40, R-20, and R-15.**

~~1. Residential—Forty thousand 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 40,000 square feet of lot area.~~

~~2. Residential—Twenty thousand 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 20,000 square feet of lot area.~~

3. ~~Residential—Fifteen thousand 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 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, town~~home~~**house**[1,2], duplex[1,2], triplex[1,2], quadplex[1,2], cottage cluster[1,2], 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~~ **facility**	~~C~~**X**	~~C~~**X**	~~C~~**X**
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~~ **Child care center**	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
Cemeteries	C	C	C
Church, synagogue, temple or other place of worship	C	C	C

Public or private school(s)	C	C	C
Crisis stabilization center or mental or psychiatric hospital	**X/P[3]**	**X/P[3]**	**X/P[3]**
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:	C	C	C
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
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	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 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.] Allowed on a lot or parcel which is vacant or contains one of the following: one single-unit dwelling, one single-unit dwelling plus an accessory dwelling unit, or a duplex.

[3.] Allowed if required per ORS 197A.386.

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 ~~and maximum density~~): 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): Town**house**~~home~~[1]	1,500 sq. ft.	1,500 sq. ft.	1,500 sq. ft.
Town**house**~~home~~ maximum 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) [6]			
Lots fronting on cul-de-sac	70 feet	50 feet	50 feet
All other lots	100 feet	80 feet	60 feet
Town**house**~~homes~~	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
Garage and carport entrances	**22 feet**	**22 feet**	**22 feet**
Cottage cluster, front	10 feet	10 feet	10 feet
Cottage cluster, rear	10 feet	10 feet	10 feet
Cottage cluster, interior side	10 feet	10 feet	7 feet
Cottage cluster, street side	10 feet	10 feet	10 feet
Building height (maximum)	45 feet[5]		
~~Shared outdoor recreation areas~~	~~400 sq. ft./unit provided in accordance with Section 16.42.080~~		

NOTES:

1 ~~Density calculations for single-family detached shall be made pursuant to Section 16.63.020(F).~~ Cottage clusters must meet a minimum density of four units per gross acre.

2 Town**house**~~home~~s are exempt from the lot width requirements.

3 Cottage cluster housing is exempt from lot coverage requirements.

4 Interior side yard setbacks for town**house**~~home~~s 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 45 feet at the front elevation; side and rear elevations may not exceed 49 feet.

6 If a duplex, triplex, ~~fourplex~~ **quadplex**, 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 town**house**~~home~~s 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 30 inches above grade (excluding eaves). Compliance with all other standards is required.

16.22.030. Low density residential zones.

A. ~~Purpose.~~ **Low density residential zones include R-10, R-8.5, and R-7.**

~~1. Residential – Ten thousand 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 10,000 square feet of lot area.~~

~~2. Residential – Eight thousand five hundred 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 8,500 square feet.~~

~~3. Residential – Seven thousand 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 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			
One single-family dwelling, town**house**~~home~~[1,3], duplex[1,3], triplex[1,3], quadplex[1,3], cottage cluster[1,3], 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~~ **facility**	~~C~~**X**	~~C~~**X**	~~C~~**X**
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~~ **Child care center**	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
Crisis stabilization center or mental or psychiatric hospital	**X/P[4]**	**X/P[4]**	**X/P[4]**
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
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
Helipad2	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

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] Subject to applicable FAA rules and regulations.

[3.] Allowed on a lot or parcel which is vacant or contains one of the following: one single-unit dwelling, one single-unit dwelling plus an accessory dwelling unit, or a duplex.

[4.] Allowed if required per ORS 197A.386.

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 ~~and maximum density~~): 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): Town**house**~~home~~[1]	1,500 sq. ft.	1,500 sq. ft.	1,500 sq. ft.
Town**house**~~home~~ maximum 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
All other lots	50 feet	50 feet	50 feet
Town**house**~~homes~~	20 feet	20 feet	20 feet
Lot coverage (maximum)3,6,7			
Single-family detached, duplex, triplex, quadplex, town**house**~~home~~	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
Garage and carport entrances	22 feet	22 feet	22 feet
Street side (corner lot)	15 feet	15 feet	15 feet
Cottage cluster units, rear	10 feet	10 feet	10 feet
Cottage clusters, side	7 feet	7 feet	7 feet
Building height (maximum)	45 feet[5]		
~~Shared outdoor recreation areas~~	~~400 sq. ft./unit provided in accordance with Section **16.42.080**~~		

NOTES:

1 ~~Density calculations for single-family detached shall be made pursuant to Section 16.63.020(F).~~ Cottage clusters must meet a minimum density of four units per gross acre.

2 Town**house**~~home~~s are exempt from the lot width requirements.

3 Cottage clusters are exempt from lot coverage requirements.

4 Interior side yard setbacks for town**house**~~home~~s 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 45 feet at the front elevation; side and rear elevations may not exceed 49 feet.

6 If a duplex, triplex, ~~fourplex~~ **quadplex**, 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 town**house**~~home~~s 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 30 inches above grade (excluding eaves). Compliance with all other standards is required.

16.22.040. Medium density ~~single-family~~ residential zones.

A. ~~Purpose~~. **Medium density residential zones include R-5 and MUR-S.**

~~1. Residential – Five thousand 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 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 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, town**house**~~home~~[1,4], duplex[1,4], triplex[1,4], quadplex[1,4], cottage cluster[1,4], or modular dwelling unit per lot[1]	P	P
Multi~~ple~~-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~~ **facility**	~~C~~**P**	~~C~~**P**
Manufactured home parks ~~subject to the provisions of Section 16.44.040~~	~~C~~**P**	P
Rooming houses	X	X
Commercial		
~~Commercial daycare facilities~~ **Child care center**	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, cafes, 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]
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
Crisis stabilization center or mental or psychiatric hospital	**X/P[5]**	**X/P[5]**
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.

[4.] Allowed on a lot or parcel which is vacant or contains one of the following: one single-unit dwelling, one single-unit dwelling plus an accessory dwelling unit, or a duplex.

[5.] Allowed if required per ORS 197A.386.

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**, and quadplex**[1,8**6**]	5,000 sf	5,000 sf
Lot size (minimum): ~~Quadplex and c~~**C**ottage Cluster **and multifamily**[8**6**]	7,000 sf	7,000 sf
Lot size (minimum) Town**house**~~home~~[1]	1,500 sf	1,500 sf
Town**house**~~home~~**/multifamily** maximum density (units/net acre)	25 du/net acre	25 du/net acre
Residential density (minimum)[1]	None**1**	6 du/net acre**1**
Lot width (minimum)[2]	40 feet	**40 feet** ~~Variable~~[4]
Lot depth (minimum)	60 feet	**60 feet** ~~Variable~~[4]
Street frontage (minimum)[8**6**]		
Lots fronting on cul-de-sac	35 feet	**35 feet** ~~Variable~~[4]
All other lots	40 feet	**40 feet** ~~Variable~~[4]
Town**house**~~homes~~	20 feet	20 feet
Lot coverage (maximum)[~~5~~**4**,8**6**,~~9~~**7**]		
Single-family (detached)	50%	**50%** ~~Variable~~[4,6]
Duplex, triplex, quadplex, town**house**~~home~~**, multifamily**	60%	**60%** ~~Variable~~[4,6]
Building setbacks (minimum)[8**6**]		
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, front	10 feet	10 feet
Cottage cluster, rear	10 feet	10 feet
Cottage cluster, interior side	5 feet	5 feet
Cottage cluster, street side	8 feet	8 feet
Garage and carport entrances		

Entrances not facing an alley	22 feet	22 feet[4]
Entrances facing an alley	22 feet to base floor (foundation only, not including posts or other support mechanisms) 6 feet to upper floors (wall face)	22 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~~5~~]	65 feet[6~~5~~]
~~Shared outdoor recreation areas~~	~~400 sq. ft./unit provided in accordance with Section 16.42.080~~	

NOTES:

1 ~~Density calculations for single-family detached shall be made pursuant to Section 16.63.020(F).~~ Cottage clusters must meet a minimum density of four units per gross acre.

2 Town**house**~~home~~s are exempt from the lot width requirements. Street frontage controls lot width for town**house**~~home~~s.

3 Interior side yard setbacks for town**house**~~home~~s 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~~**4** Cottage cluster housing is exempt from lot coverage requirements.

~~6 Pursuant to Section 16.42.030, 20% of the net developable area must be usable open space.~~

~~7~~**5** The single-family residential building height maximum is 45 feet at the front elevation; side and rear elevations may not exceed 49 feet.

~~8~~**6** If a duplex, triplex, ~~four~~**quad**plex, 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~~**7** Maximum lot coverage for town**house**~~home~~s 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 30 inches above grade (excluding eaves). Compliance with all other standards is required.

16.22.050. High density residential—Attached.

A. ~~Purpose.~~ **High density residential zones include SFA, MUR-A, and VTH.**

~~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 10 to 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 15 units per net acre and a minimum density of 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 (Land Divisions and Property Line Adjustments) 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**[8]**	P[1]
Single-family detached dwellings (new)	X	X[8]	X
Single-family attached dwellings (townhouses~~, rowhouses~~)	P	P**[9]**	P
Two-family dwelling (duplex)	P	P**[9]**	P
Three-family dwelling (triplex)	P	P**[9]**	P
Four-family dwelling (quadplex)	P	P**[9]**	P
Cottage cluster dwellings	X	P**[9]**	X
Multifamily dwellings ~~containing five or more dwelling units or condominiums~~	~~X~~**P**	~~X~~**P**	~~X~~**P**
Senior housing, congregate housing or nursing homes	X	P	X
Residential home	**P**	**P**	**P**
Residential facility	**P**	**P**	**P**
Crisis stabilization center or mental or psychiatric hospital	**X/P[10]**	**X/P[10]**	**X/P[10]**
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
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	P4,7	P4,7	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~~ **Child care center**	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 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	P	P[3]
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	P3
Bus shelters, bicycle facilities, street furniture, drinking fountains, kiosks, art works and other pedestrian and transit amenities	P	P	P3
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-famaily dwellings ~~and residential homes~~ may be altered or expanded.

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

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 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 2,~~0~~5500 square feet are permitted in the MUR-A zone within the Happy Valley Town Center Plan Area.

9. Within the Happy Valley Town Center Plan Area allowed on a lot or parcel which is vacant or contains one of the following: one single-unit dwelling, one single-unit dwelling plus an accessory dwelling unit, or a duplex.

10. Allowed if required per ORS 197A.386.

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

A. ~~Purpose.~~ **Mixed use residential multifamily zones include MUR-M and MUR-X.**

~~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 subareas 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
Single-family ~~A~~**a**ttached dwellings~~,~~ (townhouses~~, attached duplex, rowhouses~~)	P	P
Multifamily dwellings	**P**	**P**
~~Low~~	~~P~~	~~P~~

~~Medium~~	~~P~~	~~P~~
~~High~~	~~P~~	~~P~~
Senior housing	P	P
Residential home	**P**	**P**
Residential facility	**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]	
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
Child care center	**P**	**P**
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~~PPost offices~~		P
Post office		**P**
Psilocybin service center	X	X
Rental stores, without outdoor storage		P
Restaurants, full service		C
Shoe sales and repair stores		P
Sporting goods, sales and service		P
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
Crisis stabilization center or mental or psychiatric hospital	**X/P[3]**	**X/P[3]**
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
Psilocybin processing, production and wholesaling	X	X

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.

[3]. Allowed if required per ORS 197A.386.

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**, and MUR-X** Districts				
Standard	MUR-M1	MUR-M2	MUR-M3	**MUR-X**

Residential density (maximum)~~1~~	24.99 du/net acre	34.99 du/net acre	50 du/net acre	**50 du/net acre**
Town**house**~~home~~ maximum density (units per net acre)	25 du/net acre	**25 du/net acre**	**25 du/net acre**	**25 du/net acre**
Residential density (minimum)~~1~~	15 du/net acre	25 du/net acre	35 du/net acre	**35 du/net acre**
Lot size (minimum)	**2,000 sf** ~~Variable~~[2]	**2,000 sf** ~~Variable~~[2]	**2,000 sf** ~~Variable~~[2]	**2,000 sf**
Lot width (minimum)	**None** ~~Variable~~[2]	**None** ~~Variable~~[2]	**None** ~~Variable~~[2]	**None**
Lot depth (minimum)	**None** ~~Variable~~[2]	**None** ~~Variable~~[2]	**None** ~~Variable~~[2]	**None**
Lot coverage (maximum)	**75%**~~Variable~~[2,3]	**75%**~~Variable~~[2,3]	**75%**~~Variable~~[2,3]	**75%**
Building setbacks (minimum)	~~Variable~~[2]	~~Variable~~[2]	~~Variable~~[2]	
Front	**10 feet**	**10 feet**	**10 feet**	**10 feet**
Rear	**15 feet**	**15 feet**	**15 feet**	**15 feet**
Interior side	**5 feet**	**5 feet**	**5 feet**	**5 feet**
Street side	**8 feet**	**8 feet**	**8 feet**	**8 feet**
Garage and carport entrances				
Entrances not facing an alley	**22 feet**	**22 feet**	**22 feet**	**22 feet**
Entrances facing an alley	**22 feet to base floor (foundation only, not including posts or other support mechanisms) 6 feet to upper floors (wall face)**	**22 feet to base floor (foundation only, not including posts or other support mechanisms) 6 feet to upper floors (wall face)**	**22 feet to base floor (foundation only, not including posts or other support mechanisms) 6 feet to upper floors (wall face)**	**22 feet to base floor (foundation only, not including posts or other support mechanisms) 6 feet to upper floors (wall face)**
Building height (maximum)	65 feet~~4~~**1**	65 feet~~4~~**1**	65 feet~~4~~**1**	**65 feet[1]**

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, 20% of the net developable area must be usable open space.~~

~~4~~**1** Building height is measured pursuant to Chapter 16.12 Definitions. Maximum building height for single-family (attached) is 45 feet at the front elevation; the building height may not exceed 49 feet at the side and rear elevations.

CHAPTER 16.23
COMMERCIAL AND EMPLOYMENT DISTRICTS

16.23.010. Mixed Use Commercial and Employment Districts.

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	P6	P6	X
Music shops, sales and service	P	P	P
Mobile food units	P5	P5	P5
Optometry and optical goods, sales and service	P	P	P
Photo finishing, photography studios	P	P	P
Psilocybin service center	P6	P6	X
Rental stores, without outdoor storage	P	P	P
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**/X**[8]	P	P
Fueling stations	**P**[9]	**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 m~~**M**ultifamily	p2, 3	P	P
~~Medium density multifamily~~	~~p2, 3~~	~~X~~	~~P~~
~~High density multifamily~~	~~p2, 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
Residential facility	**P**	**P**	**P**
Crisis stabilization center or mental or psychiatric hospital	**X/P**[10]	**X/P**[10]	**X/P**[10]
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
Psilocybin processing, production and wholesaling	X	X	X
Wholesale sales	X	P	X
Institutional			
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)~~ **Child care centers**	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 10 du/acre and not to exceed the maximum MUR-M2 density of 34 du/acre (10 to 34 du/acre) may be~~ **are only** 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 50% 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 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.

[8] Prohibited in the Happy Valley Town Center.

[9] Fueling stations within the Happy Valley Town Center Plan Area are required to be located with direct vehicular access provided by an adjacent major or minor arterial facility or collector facility per the City's Transportation System Plan.

[10] Allowed if required per ORS 197A.386.

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 (m~~**M**aximum~~)~~	50 du/net acre	~~NA~~ **50 du/net acre**	50 du/net acre
~~Hi~~gh density (~~m~~**M**inimum~~)~~	~~35~~**15** du/net acre~~[2]~~	~~NA~~ **15 du/net acre**~~[2]~~	~~35~~**15** du/net acre~~[2]~~
Lot size (minimum)	**None** ~~Variable[3]~~	**None** ~~Variable[3]~~	**None** ~~Variable[3]~~
Lot width (minimum)	**None** ~~Variable[3]~~	**None** ~~Variable[3]~~	**None** ~~Variable[3]~~
Lot depth (minimum)	**None** ~~Variable[3]~~	**None** ~~Variable[3]~~	**None** ~~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
Building setbacks (minimum)	~~Variable[3]~~	~~Variable[3]~~	~~Variable[3]~~
Front	**10 feet**	**10 feet**	**10 feet**
Rear	**15 feet**	**15 feet**	**15 feet**
Interior side	**5 feet**	**5 feet**	**5 feet**
Street side	**8 feet**	**8 feet**	**8 feet**
Building height (maximum)	65 feet~~[3]~~	65 feet~~[3]~~	**65 feet** ~~Variable[3]~~

~~NOTES:~~

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

~~2 Minimum density of 80% 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.~~

16.23.020. Village Commercial and Village Office Districts.

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
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 100 feet from a residential district or closer than 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 12 lanes, billiard halls with no more than six tables, and game rooms which provide no more than 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
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
Psilocybin service center	X	X
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 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
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 1,500 square feet or serve more than 13 children each~~ **Child care center**	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 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
Residential home	**P**	**P**
Residential facility	**X**	**P**
Crisis stabilization center or mental or psychiatric hospital	**X/P[2]**	**X/P[2]**
Other		
Marijuana processing, production and wholesaling	X	X
Psilocybin 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
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 20% of the gross floor area of the development.

2 ~~Pursuant to Section 16.69.010.~~ **Allowed if required per ORS 197A.386.**

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%
Setbacks (minimum)	~~Variable~~ ~~1~~	~~Variable~~ ~~1~~
Front	**10 feet**	**10 feet**
Rear	**15 feet**	**15 feet**
Interior side	**5 feet**	**5 feet**
Street side	**8 feet**	**8 feet**
Building height (maximum)	45 feet	45 feet

~~NOTES:~~

~~1 Standards are flexible and shall be determined through the master plan process or a design review.~~

16.23.030. Commercial districts.

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~~ **Multifamily** residential	P[1, 2]	P[1, 3]
Live-Work Units	P[2,8]	X
Senior housing	X	P
Skilled nursing facility	X	P
Congregate care	X	P
Residential home	**P**	**P**
Residential facility	**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

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
Psilocybin service center	P[6]	P[6]
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 1,500 feet from school uses)	C	C
Theaters or assembly halls	C	C
Vehicular service~~/fueling stations~~	P/**X**[9]	P/**X**[9]
Fueling stations	**P**[10]	**P**[10]
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
Child care centers	**P**	**P**
Crisis stabilization center or mental or psychiatric hospital	**X/P**[11]	**X/P**[11]
Other		

Marijuana processing, production and wholesaling	X	X
Psilocybin 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~~ **are only** 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 50% of the CCC zoned area of the parcel or subject property.

In the Rock Creek Employment Center, the same residential densities may be utilized in freestanding residential footprints if a nonresidential use per Table 16.23.030-1 occupies one street side of the parcel, and occupies at least 18% of the total ground floor footprints. Of the nonresidential footprint, 65% maximum may be live/work units.

[3] Residential uses **are only permitted** ~~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. **The residential density must be 10—34 du/acre.**

[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.

[8] Live-work units limited to the Rock Creek Employment Center.

[9] Prohibited within the Happy Valley Town Center.

[10] Fueling stations within the Happy Valley Town Center Plan Area are required to be located with direct vehicular access provided by an adjacent major or minor arterial facility or collector facility per the City's Transportation System Plan.

[11.] Allowed if required per ORS 197A.386.

~~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.~~

~~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 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.

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~~ **Child care center**	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. Ancillary uses such as mobile food units permitted.	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
Crisis stabilization center or mental or psychiatric hospital	**X/P[3]**
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 No reasonable alternative, such as the availability of nearby rental housing, exists.	C
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.

[3]. Allowed if required per ORS 197A.386.

CHAPTER 16.25
INDUSTRIAL DISTRICTS

16.25.005. Rock Creek Mixed Employment (RC-ME) District.

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~~ **Child care centers**	~~C~~**P**
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
Psilocybin service center	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
Psilocybin processing, production and wholesaling	X
Fabrication	P
Energy recovery systems	
Research and development facilities	P
Laboratories	P
Repair, finishing, and testing	P
Assembly	P
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
Crisis stabilization center or mental or psychiatric hospital	**X/P[11]**
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 20,000 gross square feet.

[5] Outdoor storage or outdoor fleet storage not permitted.

[6] Permitted as an accessory use—May not exceed 20% 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.

[8] Fleet parking or mail processing centers not allowed. Permitted use limited to direct consumer services.

[9] Retail sales uses may not exceed 60,000 square feet of gross lease area in a single building; or commercial retail uses with a total of more than 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.

[11.] Allowed if required per ORS 197A.386.

~~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 10 acres in size or larger within the RC-ME District and may be used voluntarily for parcels smaller than 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 15% 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 10% and no greater than five-foot contours for slopes greater than 10%;

(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 20% increase or decrease in the numerical standard. If the proposed modification involves a change in a numerical standard of greater than 20%, 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 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 60 days prior to the expiration of the initial 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 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 10,000 gsf in any one year, and shall not exceed 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 10,000 gsf but less than 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 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 10% 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 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 10% 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 10% 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.

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		
~~Commercial day care~~ **Child care centers**	~~C~~**P**	~~C~~**P**
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
Fueling stations	**X**	**P**[10]
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
Psilocybin service center	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 such as utility substations; water, sanitary sewer and wastewater pump stations; public works facilities; police and fire facilities; including associated structures and yards.	P	P
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.	C2	X
Public and private schools ~~(includes commercial day care, dancing and music schools)~~	X/C[2, 7]	X
Crisis stabilization center or mental or psychiatric hospital	**X/P[14]**	**X/P[14]**
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]
Psilocybin 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

NOTES:

[1] Residential uses on upper floors of mixed use buildings ~~are permitted~~. **Residential uses are only permitted** ~~I~~**i**n the Rock Creek Employment District, the ground floor may contain a residential use (including ancillary residential uses within the same tenant space such as lobbies, day care, community rooms, exercise facilities, office, and activity spaces), provided that residential uses, accessory and ancillary uses, whether shared with commercial uses or separate**,** occupy no more than 80% of the overall interior square footage of the site. No ground floor residential use may be within 20 feet of a transit street.

[2] New commercial retail uses shall not exceed 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 20% more floor area and 10% 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 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 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 20% more floor area and 10% 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 40% of the total gross floor area.

[5] If not fully enclosed, must be located more than 200 feet from residential districts and

petroleum storage and refining.

6 Permitted as an accessory use—May not exceed 20% of the total site area.

7 All uses are prohibited within the Rock Creek Employment Center Subdistrict as defined in ~~subsection F~~ **16.25.010.F**. 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 20% of the total site area except as noted in ~~subsection~~ **16.25.010.**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.

14 Allowed if required per ORS 197A.386.

~~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 50 feet of established single-family residential uses, there will be a vegetative buffer of at least 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

16.32.040 Designation of buildable lands.

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:

3. Mapped DOGAMI **high and moderate** potentially rapidly moving landslide hazard areas.

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.~~

16.32.090. Density and density transfers.

Within conservation slope areas and **high and moderate** 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 Section 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~~**D**). 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 15% slope ~~lands within the same parcel or on other parcels which are a part of the application,~~ **unless otherwise allowed in this chapter** ~~to the greatest degree practicable~~;

~~B. Significant trees and other resources are protected and/or incorporated into the site design;~~

~~C~~**B**. Lands that remain undeveloped are **encouraged to** coordinate~~d~~ 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 **and link wildlife corridors**;

~~D. Opportunities for linking wildlife corridors and pedestrian trails are implemented;~~

~~E~~**C**. Provision of access and internal circulation routes **for non-residential uses** 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.~~

D. The development complies with all other applicable provisions of this chapter.

CHAPTER 16.34
NATURAL RESOURCES OVERLAY ZONE

16.34.050. ~~Adjustments to site design standards and d~~Density transfer.

~~A. Adjustments to Site Design Standards. In order to avoid or minimize impacts to natural resources, the following adjustments to the site design standards of the underlying zoning shall be allowed for development on parcels that are partially or wholly within the NROZ:~~

~~1. The minimum building setback of the base zone may be reduced to any distance between the base zone minimum and zero, unless this reduction conflicts with applicable fire or life safety requirements.~~

~~2. Landscaping requirements, apart from those required for parking lots or street berms, may be met by preserving the Water Quality Resources and/or HCA.~~

~~3. Stormwater facilities that detain, retain or infiltrate stormwater onsite, including the associated piping, may be placed within an HCA, which is not a Water Quality Resource, so long as the disturbance to forest canopy and the areas within the driplines of the trees is minimized. Such facilities may include, but are not limited to, detention ponds, vegetated swales, rain gardens, vegetated filter strip, and vegetated infiltration basins. Only native vegetation may be planted in these facilities.~~

~~B.~~ **A d~~D~~**ensity calculation ~~shall~~ **may** be made and transfer within the site pursuant to Section 16.63.020(**~~F~~D**) **only within the flexible design review and flexible land division process**. 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:

1. Within the high value HCA and/or the water quality resource area outside of the high or moderate HCA, 10% of area shall be considered for the purpose of calculating density. The maximum density for the area is one unit per acre.
2. Within the moderate HCA, 20% of the area shall be considered for the purpose of calculating density. The maximum density for the area is one unit per acre.

16.34.070. Development standards.

A. 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).

5. Standards for Partitions, Subdivisions and ~~PUD~~ **flexible land division**s. 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~~ **flexible land division** 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 30 percentage point difference in the percentage of HCA on the parcels; for example, a partition that produces two parcels, one that is 55% HCA and the other that is 35% HCA is permissible; whereas a partition that produces two parcels, one that is 75% HCA and

the other that is 30% HCA is not permissible. However, an applicant may partition a property such that at least 90% of the original property's High HCA and 80% 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/~~PUD~~ **flexible land division**s 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~~ **flexible land division** 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 90% of the High HCA and 80% of the Moderate HCA in a separate tract.

(1) If over 50% of the HCA on a property is of a High designation, the entire calculation is for High (i.e., 90% of the HCA must be placed within a separate tract).

(2) If over 50% of the HCA on a property is of a Moderate designation, the entire calculation is for Moderate (i.e., 80% 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 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/~~PUD~~ **flexible land division**s, 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.

Chapter 16.39 Main Street District Overlay

16.39.030 Master Plan ~~Encouraged~~ **Required**

The Main Street District (MSD) encourages dense, pedestrian-oriented, mixed-use development patterns and well-planned infrastructure. The district allows a variety of commercial uses and residential dwelling types and densities. The size and flexibility of the ~~HVDD~~ **MSD** supports a detailed plan and study which provides for phasing of development that can be implemented over time. Public right-of-way improvements may be installed prior to a master plan.

CHAPTER 16.40
DESIGN STANDARDS ADMINISTRATION

~~**16.40.030. Modifications that will better meet requirements.**~~

~~The review body shall consider modification of certain site related development standards of this article specified below. These modifications may be approved in conjunction with a Type II, III or IV review process.~~

~~A. Applicability.~~

~~1. This process shall apply to modifications to:~~

~~a. Vehicular access and circulation in Section 16.41.030;~~

~~b. Pedestrian access and circulation in Section 16.41.040;~~

~~c. Landscaping standards in Section 16.42.030;~~

~~d. Fencing, walls, and screening in Section 16.42.060;~~

~~e. Shared outdoor recreation areas in Section 16.42.080;~~

~~f. Off-street loading facilities in Section 16.43.050;~~

~~g. Mobile home parks in Section 16.44.045;~~

~~h. Special standards for neighborhood commercial uses in Section 16.44.080; or~~

~~i. Industrial design standards in Section 16.48.010~~

~~2. Modifications that are denied may be requested as a variance process pursuant to Chapter 16.71, as applicable.~~

~~3. Rather than a modification, applicants may choose to apply for a variance through the variance process pursuant to Chapter 16.71, as applicable.~~

~~B. The review body may approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:~~

~~1. 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.~~

~~2. On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.~~

~~3. The modification will result in a development that better meets the intent of the standard.~~

CHAPTER 16.41
ACCESS AND CIRCULATION

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 **shall be** ~~(as~~ designated in **accordance** the transportation system plan~~) are subject to review and approval by the City Engineer~~ **and Title 16**. ~~Where practical, a~~**A**ccess from a lower functional order street shall be required.

[…]

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~~ **will** 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 20 feet for a two-way drive or 12 feet for a one-way drive**.**

The first 20 feet of the driveway shall be at least as wide as the approach that connects it to the public roadway ~~but in either case not less than the full width of the standard approach for the first 20 feet of the driveway.~~

5. Driveways, aisles, turnaround areas and ramps shall have a minimum vertical clearance of 12 feet for their entire length and width**, except in parking garages** ~~but such clearance may be reduced in parking structures~~.
6. No driveway shall traverse a slope of 12 percent or greater without approval from Clackamas Fire District #1 **and the City Engineer**. In no case shall the driveway slope be greater than 15 percent without a design exception approved by the **C**ity ~~e~~**E**ngineer.

10. Shared Driveway or Accessways

a. The minimum paved all weather surface width of all shared drives shall be 24 feet with no vehicular obstruction, including trees, fences, landscaping and/or structures. The width may be reduced by Clackamas Fire per the Oregon Fire Code.

b. A drive serving more than one lot shall have reciprocal access and maintenance easement(s) recorded for all lots.

c. No fence, structure or other obstacle shall be placed within the drive area.

d. Accessways must comply with the Oregon Fire Code.

CHAPTER 16.42
LANDSCAPING, FENCES AND WALLS, RECREATION AREAS

16.42.020 Applicability.

This chapter shall apply to all ~~land divisions and~~ developments ~~subject to site design review~~ **and tree removal**. Accessory dwelling units, single-family detached, single-family attached dwellings, duplexes, triplexes, quadplexes, or cottage clusters are not subject to Section 16.42.030(D), (~~F~~**E**), (~~G~~**F**), (~~H~~**G**), ~~(J)~~ and (~~K~~**I**).

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.~~ **1.** 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.~~ **2.** 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 25% of the required landscaped area~~. This area~~ **and** 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~~ **are not considered** open space except for **roofed structures which are** open **on at least three sides, including but not limited to** ~~unenclosed public~~ patios, balconies, **and** gazebos~~, or other similar structures or spaces~~.

~~8.~~ Driveways and parking areas ~~shall not be included as~~ **are not considered** landscaped area.

~~9.~~ **3.** All areas not occupied by paved roadways, parking areas, loading areas, driveways, walkways, patios, or buildings shall be landscaped.

~~10.~~ **4.** 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. **A landscape architect or enginner shall certify that u**~~U~~pon 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~~ **flexible land division** or nonresidential development.

~~11.~~ **5.** 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 **financial surety** ~~assurances to cover the cost of required public improvements, in accordance with Section 16.50.080~~.

6. Tree plantings shall meet the minimum standards as outlined in the 2021 American National Standards Institute A300 standards.

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~~ **this title**;
   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;
   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**, measured** at four **and a half** feet in height**,** proposed to be removed;
   h. The approval standards shall be the applicable standards contained in this section.

D. Parking Lot Landscaping. **Commercial, office, industrial, multifamily, and institutional parking lots shall comply with parking lot landscaping requirements.**

1. **Interior parking lot landscaping shall** cover not less than 15% of the parking area.
   a. The landscaping shall be uniformly distributed throughout the parking area and may consist of trees, shrubs, and groundcovers.
   b. Interior parking lot landscaping shall include:
      i. A minimum of one tree per four parking spaces.

ii. A minimum of 1.5 shrubs per parking space.

~~b~~**c**. The tree canopy coverage shall be a minimum of 30% over parking areas, with spacing and species planted to maintain a continuous canopy except when interrupted by driveways, drive aisles, and other site design considerations. A tree canopy plan shall be submitted in coordination with the local electric utility, including pre-design, design, building and maintenance phases.

~~c~~**d**. A certified arborist must review the proposed parking lot landscape plan ~~to ensure~~ **and certify** that the location of the proposed tree plantings maximizes their root health and chances for survival, including having ample high-quality soil, space for root growth, and reliable irrigation according to the needs of the species. **The City encourages that** ~~T~~**t**rees ~~should~~ be planted in continuous trenches where possible.

~~d~~**e**. ~~Tree plantings shall meet the minimum standards as outlined in the 2021 American National Standards Institute A300 standards.~~ **Parking areas shall be divided into bays of not more than eight spaces in parking areas with 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 17 feet for a single depth bay and 34 feet for a double bay. Each planter shall contain one tree and groundcover. Truck parking and loading areas are exempt from this requirement.**

2. **Perimeter parking lot landscaping shall be provided for** ~~Screening of all~~ parking areas containing four or more **parking** spaces ~~and all parking areas~~ **within 100 feet of any property line or right-of-way. Perimeter parking lot landscaping is not required where a building onsite is located between parking area and the property line or right-of-way.** ~~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 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.~~ **The perimeter parking lot landscaping shall be a minimum of ten feet in width and include:**

   a. Trees spaced a maximum of thirty feet apart. All trees shall be offset from the street trees; and

   b. An evergreen hedge screen of thirty to forty-two inches in height at full growth or shrubs spaced no more than four feet apart on average. Visual breaks, no more than five feet in width, shall be provided every thirty feet within evergreen hedges abutting rights-of-way.

~~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 80% 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 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 17 feet for a single depth bay and 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. The street tree requirements in 16.50.110 shall be met.~~

~~F~~ **E**. 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~~ **certified by a landscape architect**. 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 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)~~ **flexible land division** and road projects requiring more than two standard residential meters (⅝ x ¾, rated at 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~~ **flexible land division** 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 ~~PUDs~~ **flexible land division** or, in the case of road projects, borne by the project owner, such as the County, City or State.

~~G~~**F**. Types and Size of Plant Material.

~~1. At least 75% of the required landscaping area (at maturity) shall be planted with a suitable combination of trees, shrubs, or evergreen groundcover.~~

~~2~~**1**. Plant Materials. **No plants on the City's adopted Nuisance Plant List may be planted**. Use of native plant materials or plants acclimatized to the Pacific Northwest is encouraged ~~where possible~~.

~~3~~**2**. ~~Deciduous trees shall be species having an average mature spread of crown greater than 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 15 feet may be substituted by grouping the same so as to create the equivalent of a 15 foot crown spread.~~ **If there are more than eight required trees, no more than 40 percent of them can be of one genus. If there are more than 24 required trees, no more than 25 percent of them can be of one genus.**

3. Trees may be deciduous and/or conifers, and must be fully branched at the time of planting. At time of planting, 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. Coniferous trees shall be a minimum five feet in height above ground at time of planting.

~~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~~**4**. Shrubs shall be a minimum of one gallon in size or two feet in height when measured immediately after planting. **If there are more than 25 required shrubs, no more than 75 percent of them can be of one genus.**

~~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 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~~**5**. **Mulch does not count as ground cover. A landscape architect shall certify v**~~V~~egetated groundcovers ~~shall be~~ **are** fully rooted**,** and ~~shall be~~ well branched or leafed**,**~~.~~ **and i**~~I~~f 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~~**6**. 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~~**G**. 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. **A landscape architect shall certify p**~~P~~lant 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~~**H**. Landscaping Between Public Right-of-Way and Property Lines. Except for ~~portions~~ **locations used** ~~allowed~~ for parking, loading, or traffic maneuvering, a required setback area abutting a public street and **an** 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.~~

~~a. 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.~~

~~b. 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 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.~~

~~c. 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.~~

~~d. Decorative walls and fences may be used in conjunction with plantings, but may not be used by themselves to comply with buffering requirements.~~

~~K~~**I**. Assurance Required. ~~Landscaped areas~~ **Prior to plat or occupancy, applicants** shall provide **financial** assurance to the City for 125 percent of the estimated cost of the **landscaped area** 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 three years after improvements are made to ensure plant survival. Plants that do not survive shall be replaced by the applicant during the first ~~two~~ **three** years after the landscaped area is improved. The amount of the maintenance bond shall be 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.~~

~~16.42.080. Shared outdoor recreation areas.~~

~~A. Applicability. The standards of this section apply to subdivisions of 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 100 feet wide by 100 feet deep;
   2. Location. No more than 50% 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 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 16.44
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 residential developments shall comply with the requirements of this chapter and the following additional requirements **identified in 16.62**.

1. **C.** Roofs. Roofs shall meet the following additional requirements:

   a. **1.** Roofs shall be gabled or hip type roofs **with a** (minimum pitch **of** 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 300 feet have roofs similar to what is proposed.

   2. Roofs shall have an overhang of at least 18 inches.

   b. **3.** Modulation of the building mass shall distinguish individual units and break down the scale of the building **The maximum length of any continuous roofline on a street-facing façade shall be seventy-five feet without** through one or more of the following between units:

      i. **a.** Vertical offsets **of at least two feet** that provide breaks in the roof line;

      ii. **b.** Horizontal offsets **of at least two feet** that provide variation in the façade plane; and/or

      iii. **c.** Variations of the roof form, **including** such as dormers or street facing gable ends that provide breaks of the roof line.

2. **D.** Entries.

   a. **1.** Entries shall be sheltered with an overhang, portico or recessed entry or otherwise articulated with an architecturally detailed entry. **Each building must include at least one entryway on the street-facing façade with:**

      a. A projection or recess of the façade a minimum of three feet in depth; and

      b. A covered entryway with a minimum depth of four feet.

      Facades separated from the street by another building are exempt from this requirement.

   a. **2.** Primary dwelling entries **entrances** shall face a public **or private** street **if adjacent to**

the site ~~or designated pedestrian way and be visible from the street whenever feasible~~.

~~b. 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.~~

~~c. Secondary entries may face parking lots or loading areas.~~

~~3.~~ **E.** Building Façades ~~Design~~ **Materials**.

~~a. Detailed Design. Detailed design shall be provided by using at least eight of the following 14 architectural features on all elevations as appropriate for the proposed building type and style (see Figure 16.44.010-4; 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 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 xiii.~~

All street-facing facades shall have a second exterior building material including stone, shingles, wainscoting, scales, or brick for a minimum of ten percent of the total wall area.

F. Offsets. Along the vertical face of a structure, when facing a public street, offsets shall occur at a minimum of every 24 feet by providing any of the following (see Figure 16.44.010-F):

1. **Recesses (decks, patios, entrances, floor area, etc.) of a minimum depth of four feet;**
2. **Extensions (decks, patios, entrances, floor area, etc.) at a minimum depth of four feet, with a maximum length of an overhang not to exceed 25 feet;**
3. **A covered porch that is at least four feet deep and at least 125 square feet in area.**

Figure 16.44.010-F Example of Extensions and Recesses



G. Windows and Doors.

1. **A minimum of 15 percent of the area of all facades shall consist of windows or entrance doors.**
2. **All windows and doors shall have trim a minimum of 3 inches wide.**

~~b.~~ **H.** Residential Mixed-Use Structures. The residential portion of a mixed use structure shall be differentiated through the use of **one or more of the following** 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~~ **shall** be used for chimney construction.

Figure 16.44.010-4G Example of Architectural Details—Multifamily



~~c.~~ **I.** Landscape/Hardscape Design. ~~The following standards apply in addition to the landscaping standards in Chapter 16.42.~~

~~i. Where new or substantially remodeled b~~**B**uildings ~~are~~ **must be** set back **ten feet or more** from **the street side** property lines**. If a zoning designation has a maximum setback smaller than ten feet, the width shall be the maximum setback. The setback area shall include** ~~and sidewalks~~, ~~intervening~~ **groundcover and one shrub for every four feet along the frontage.** ~~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.~~ **J.** ~~Miscellaneous solid w~~**W**ood 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 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 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 125 square feet in area.~~

~~Figure 16.44.010-6 Example of Extensions and Recesses~~



K. Parking Lots. Parking lots shall not occupy more than 50% of the frontage of any public street abutting the lot or building.

L. Carports and Garages. If carports and garages are provided, the material and color shall be the same as the complex they serve.

~~5.~~ **M.** Private Outdoor Areas.

~~a.~~ A ~~separate~~ **private** outdoor area of not less than 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.~~ **Examples include fenced areas, patios separated by landscaping, balconies, terraces, or porches.**

~~b. A separate outdoor area of not less than 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 50% 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 a 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.~~ **N.** Shared Outdoor Recreation Areas. **Useable recreation areas shall be provided at the rate of 200 square feet per dwelling unit.**

~~10.~~ **1. Useable recreation includes but are not limited to, playgrounds, exercise trails with benches, sport courts, swimming pools, hot tubs, spas, dog parks, community spaces with seating and landscaping in excess of minimum requirements, and community gardens.**

2. Useable recreation area may also include slopes, wetlands, natural resource buffer areas, and other natural site features, however, at least 50% of the recreation area must be located outside the boundaries of such areas and slopes may not exceed 10% in the 50% usable recreation area.

3. Such areas shall be counted as part of the required landscaping.

4. Gazebos and other outdoor covered spaces are encouraged and qualify as one and one-fourth square feet of required useable recreation area for every one square foot of outdoor covered area.

5. Shared outdoor recreation areas are not required if a public park is located within 1,000 feet of a development.

~~Multifamily residential development shall provide usable recreation areas for developments containing more than five dwelling units at the rate of 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 50% of the recreation area must be located outside the boundaries of such areas and slopes may not exceed 10% in the 50% 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 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;~~

~~b.~~ **6.** ~~Provides a~~ **The** ~~usable~~ surface materials ~~such as~~ **shall include** lawn, decks~~,~~ wood chips, sand**,** **pavers,** ~~and~~ **and/or** hard surface materials **including** ~~(~~concrete/asphalt~~)~~.

~~11.~~ **O.** 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** ~~a~~ directory **shall be posted outside within 25 feet of the driveway or primary entranceway** ~~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.~~

~~12.~~ **P.** Service, Delivery and Screening.

~~a. Locate~~ **1. P**postal delivery ~~areas in a convenient location efficiently designed for residents and mail delivery personnel and in accordance with~~ **shall be provided in location(s) approved by the** U.S. Postal Service **onsite** ~~requirements~~.

~~b.~~ **2.** ~~Provide~~ **Hard surfaced** pedestrian access from unit entries to postal delivery areas, garbage and recycling collection areas, shared activity areas and parking areas **shall be provided**. ~~Elements such as, but not limited to, c~~**C**oncrete paths, striped walkways or raised walkways through vehicular areas ~~or gravel trails~~**, or pavers** ~~will~~ meet this requirement.

~~c.~~ **3. Garbage and Recycling Collection.**

a. ~~Provide g~~**G**arbage collection and recycling **shall be provided** ~~areas~~ in ~~convenient~~ locations **approved by** ~~for~~ the service provider ~~and residents~~.

~~d.~~ **b.** Garbage collection areas shall have a concrete floor surface and shall have a gate on the truckloading side and a separate pedestrian access.

c. Outdoor storage areas, garbage containers and recycling bins shall be screened from view **with sight obscuring doors and** in one of the following manners:

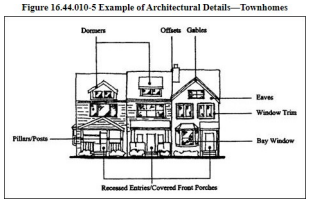
~~i.~~ i.A solid sight obscuring wall or fence not less than six feet in height and constructed of **brick, concrete, or block** ~~with the primary structure(s)~~ shall surround these areas;

~~ii.~~ ii.**A landscape architect shall certify that e**~~E~~vergreen plant materials ~~that~~ will **completely screen the area from the public view** ~~retain their~~ screen~~ing 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.~~

~~e.~~ **Q.** 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. **If landscaping is used, a landscape architect shall submit documentation certifying that evergreen plantings will screen the complete view within three years.**

~~13. 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:~~

Figure 16.44.010-5 Example of Architectural Details—Townhomes



~~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.~~

~~14. A request for exception under this provision may be processed as part of the underlying application or separately as a Design Review II application.~~

~~15.~~ **R.** Multifamily dwellings in Village Commercial District (VC) 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.

16.44.050. Accessory dwelling units.

B. Development Standards. In addition to the applicable standards of the underlying residential zone, ADUs

shall comply with the following development standards:

1. ADUs shall be allowed only in conjunction with **a lot or** parcel~~s~~ containing one single-family dwelling. ~~Only~~ **Up to** one **attached and one detached** ADU **is allowed** per **lot or** parcel, or parent lot if applicable, is permitted.

16.44.055. Accessory uses and structures.

A. A fence, wall, retaining wall, gate or combination thereof ~~may be located~~ on real property, not within the right-of-way, **is** subject to all of the following:

1. Fences and Walls.

f. Walls**, fences,** and earthen berms along arterial or collector streets in residential districts.

i. Prior to the issuance of a certificate of occupancy for a dwelling in a partition, subdivision, ~~PUD~~ **flexible land division,** 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 **at a minimum height of four feet:**

~~i. Main Entrance Facing an Arterial or Collector Street. Dwellings with the main entrance facing an arterial or collector street must construct a three- to four-foot-tall barrier along the associated frontage consisting of:~~

~~a.~~ **A.** Masonry or brick walls treated with anti-graffiti sealant; or

~~b.~~ **B.** Decorative metal fence with masonry or brick columns; or

~~c.~~ **C.** Solid earthen berms no greater than 25% in slope ~~and~~ **on** both faces of the slope with groundcover, shrubs, and trees covering the berm.

~~ii. Main Entrance Not Facing an Arterial or Collector Street. Dwellings with the main entrance not facing an arterial or collector street must construct a five- to 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% in slope and both faces of the slope with groundcover, shrubs, and trees covering the berm.~~

~~iii.~~ **ii.** If a fence or wall is located in a utility easement, a minimum five-foot-wide landscape strip shall exist between the property line and fence**/wall and must be** planted with shrubs and groundcover, subject to the landscape plan design and construction standards of this title.

~~iv.~~ **iii.** ~~A recorded Contract,~~ Covenants**, Conditions,** and Restrictions (CC&Rs) ~~is required to assure~~ **shall be recorded against the property and must address** ongoing maintenance **of the fence or wall**.

~~v. The Planning Official may waive the arterial or collector fencing requirements if warranted by existing conditions.~~

iv. The wall, fence, and/or earth berm is not required along the frontage of an open space or stormwater facility.

16.44.070. Affordable or Accessible Bonus Housing Units.

On lots or parcels where middle housing is permitted pursuant to ORS 197A, and where one or more proposed units qualifies as an accessible unit or affordable unit, the following additional dwelling units shall be permitted:

A. For a duplex or triplex otherwise permitted on the property, one additional attached or detached dwelling unit may be developed, resulting in a triplex or quadplex.

B. For a townhouse development, quadplex, or cottage cluster otherwise permitted on the property, up to two additional attached or detached dwelling units may be developed, resulting in additional townhouse or cottage cluster units, or an attached or detached five-unit or six-unit development.

16.44.120. Design standards for single-family detached, townhouse~~home~~, duplexes, triplexes, quadplexes, ~~and~~ cottage clusters, and affordable or accessible bonus housing units.

A. Applicability. New construction and modifications to existing detached single-family, town**house**~~home~~s, duplexes, triplexes, quadplexes, ~~and~~ cottage clusters**, and affordable or accessible bonus housing units** shall meet the requirements of this section **for each building** unless exempt. **Siting and design standards shall only apply to the new units.** The following

are exempt from subsections (B)(1)—(2) of this section:

1. Dwelling units more than 100 feet from the public right-of-way;
2. Expansion of an existing residential structure that adds less than 50% of the width on the streetfacing façade;
3. Dwellings within a manufactured home park.

B. Design Standards.

1. Windows. A minimum of 15% of the area of all street-facing façades must ~~include~~ **consist of** windows or entrance doors. Façades separated from the street property line by a dwelling are exempt from meeting this standard. See Figure 16.44.120-1.

Figure 16.44.120-1. Window Coverage



2. Unit Definition. Each ~~dwelling~~ **building** must include at least eight of the following features on the most architecturally significant street-facing façade. All other street-facing façades must include windows or entrance doors ~~for~~ **covering** a minimum of 15% 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 façade of at least 18 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 40 square feet in area,
   h. Window trim (minimum three inches wide),
   i. Windows are wood, cladded wood, or fiberglass,
   j. A minimum of 30% of the area of the ~~street-facing~~ façade ~~includes~~ **consists of** windows and/or entrance doors **(excluding garage doors)**,
   k. Gables,
   l. Cupolas or towers,
   m. Pillars or posts,
   n. Eaves (minimum 12 inch projection),
   o. A minimum of 50 square feet of **a** ~~decorative patterns on~~ **second** 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 12 square foot window above the garage,
   s. **All g**~~G~~arages 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 on site,
   u. No **attached** garage on the **street-facing** façade~~.~~,
   v. Transom window above a door,
   w. Sidelight window(s) adjacent to the front door.

3. Variation of Design. ~~No two directly adjacent buildings in a land division of more than 50 lots may have the same front or street-facing façade. This standard is met when street-facing façades differ from one another by a minimum of three of the elements listed in subsections below. Mirrored/flipped floorplans are not allowed.~~
   ~~a. Different exterior cladding materials, a different combination of materials, or significantly~~

~~different dimensions, spacing, or arrangement of the same materials.~~

~~b. Different offsets, recesses, or projections; or the building elevations break in different places.~~

~~c. Different roof forms (e.g., gable versus gambrel or hip), different orientation (e.g., front-~~

~~d. 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 two feet of vertical rise to 12 feet of horizontal run.~~

~~e. Different configuration or detailing of the front porch or covered entrance.~~

~~f. Different placement, shape, or orientation of windows or different placement of doors.~~

~~g. Different number of building stories.~~

~~h. Different garage orientation (e.g., front, side, rear).~~

a. Applicability. This standard applies to single-family dwellings in a land division that creates more than 50 lots.

b. Adjacent buildings. Buildings are adjacent when they are on lots that share a side lot line and face the same street.

c. Standard. The street-facing façades of adjacent buildings must differ by at least three of the elements in subsection (d). A façade that is a mirror image of the adjacent façade, or the same façade with a flipped floor plan, does not meet this standard.

d. Elements. Each element is met when the façades differ as described:

1. **Siding. The primary siding material differs. Primary siding is the material that covers at least 50 percent of the façade, not counting windows and doors. Siding materials include lap siding, board-and-batten, shingle, panel, stucco, brick, and stone. The element is also met if both façades use the same primary siding but the siding direction differs (horizontal or vertical) or the lap or shingle exposure differs by at least 2 inches.**
2. **Number of Offsets. The number of wall offset, recess, or projections that is at least 2 feet deep differs.**
3. **Location of offsets. The location of wall offset, recess, or projections differs.**
4. **Roof form. The primary roof form differs (gable, hip, gambrel, shed, or flat), or the main ridge direction differs (parallel or perpendicular to the street).**
5. **Roof pitch or dormers. The primary roof pitches differ by at least 2:12, or only one façade has a dormer facing the street.**
6. **Front porch or covered entry. Only one façade has a front porch or covered entry. If both do, the element is met when the width or depth differs by at least 2 feet, or the roof form over the porch or entry differs.**
7. **Number of windows. The number of windows on the street-facing façade differs by at least one.**
8. **Window area. The total window area on the street-facing façade differs by at least 20 square feet.**
9. **Door. The primary entry door is at least 4 feet farther from the same side wall than the adjacent facade.**
10. **Stories. The number of stories differs.**
11. **Garage. The garage orientation differs (front-loaded, side-loaded, rear-loaded, or no attached garage).**
12. **Number of garages. The number of garage doors facing the street differs.**

4. Alley Access, Street Access, and Common Area Development and Design Standards. This section is not applicable to middle housing child lots.

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. **Except for townhouse, triplexes, and quadplexes which meet the off-street parking requirement and frontage limits, o**~~O~~ne 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.

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.

C. The following applies to conversion and additions of any housing type to townhouse, duplex, triplex, quadplex or cottage cluster housing:

1. **The housing type to which it is being converted is a permitted use in the underlying zone.**
2. **With the exception of minimum parking requirements, the conversion does not create a nonconforming use or increase nonconformance with applicable development or design standards.**
3. **With the exception of conversions to cottage clusters, middle housing conversions are exempt from additional residential design standards in 16.44.120 of this title.**
4. **Separate utility connections are provided or available for the additional unit(s), either on the side or front of the house structure.**

CHAPTER 16.46
HAPPY VALLEY STYLE DESIGN STANDARDS

16.46.010. Happy Valley Style design standards.

~~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.

G. 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. 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 healthy, neat, and orderly appearance and shall be kept free of refuse and debris.

H. Trees to be retained shall be protected from damage during construction by a construction fence located five feet outside the drip line.

CHAPTER 16.50
PUBLIC AND PRIVATE TRANSPORTATION FACILITIES AND UTILITIES

~~**16.50.015. Modifications that will better meet requirements.**~~

~~The City Engineer shall consider modification of certain site related development standards of this article specified below. These modifications may be approved in conjunction with a Type II, III or IV review process.~~

~~A. Applicability.~~

~~1. This process shall apply to modifications to Chapter 16.50 not otherwise identified in this chapter.~~

~~2. Modifications that are denied may be requested as a variance process pursuant to Chapter 16.71 as applicable.~~

~~3. Rather than a modification, applicants may choose to apply for a variance through the~~

~~variance process pursuant to Chapter 16.71 as applicable.~~

~~B. The City Engineer may approve requested modifications if it is determined that the applicant has shown that 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.~~

16.50.020. General public facilities standards.

A. An applicant for development of any property ~~shall be~~ **is** required to improve the public facilities and services which directly serve the subject property per the City's standards, below. The required public improvements shall be paid for directly by the landowner or developer unless otherwise agreed by the City. Failure to provide final installation of required public facility improvements to City Engineering Standards will be cause for the lack of issuance of a final building permit certificate of occupancy based on inspection and approval by the City Engineer.

Limitations to required public improvements include:

1. An exaction based on traffic impacts (other than a system development charge or a development requirement specific to the lot or parcel or its frontage) is not required for an individual middle housing development allowed under ORS 197A.421 or ORS 197A.420 except for developments of townhouses or cottage clusters with more than 12 units, or lots or parcels created by a division of land (excluding a middle housing land division) that occurred within the previous five years.

2. Frontage improvements (i.e., repairs to or construction or renovation of roadway surfaces, curbs, gutters, sidewalks and similar or related infrastructure that are privately constructed, located within a public right of way, and adjacent to property for which a municipality has issued a construction permit) are not required as a condition of a permit to renovate or otherwise alter an existing building when all of the following are met:

a. The proposed alteration does not increase the gross floor area, building footprint, or building square footage.

b. The cost of the proposed alteration does not exceed the threshold established by the Director of the Oregon Department of Consumer and Business Services pursuant to applicable state law.

c. The existing or proposed use of the building does not result in a change in occupancy classification from the occupancy group applicable to the building on the date the construction permit application was submitted.

Dedication of right-of-way, system development charges, a waiver of remonstrance for the formation of a local improvement district, assessment, collection, or payment of fees associated with a local improvement district or of charges in lieu of a local improvement district assessment, repairing damage caused by the development, compliance with the Americans with Disabilities Act of 1990 (as amended and in effect on the applicable date of state law), or federal, state, or local accessibility requirements are exempt from this limitation.

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.~~

~~D. In the alternative, if requested by the applicant, the City Engineer or designee may approve:~~

~~a. An alternative to the required improvements, based upon information submitted by the applicant showing that the improvements which would otherwise be required by this code would not be roughly proportional to the impact of the proposed development, as determined by the City.~~

~~b. Where the applicant submits information showing that existing physical or topographical conditions, or other factors, make the extension of a public facility concurrent with development impractical or unproportional, the applicant may dedicate right-of-way and a public utility easement, and make a cash payment to the City in lieu of construction of the facility ("fee-in-lieu-of"). The amount of the payment shall be equal to 125% of the estimated cost for the design and construction of the facility, or the developer's proportional share thereof, as calculated by the City.~~

~~E~~**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.

~~F~~**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.

~~G~~**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 300 feet of any property line of the **site** ~~existing system~~ and **is** 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 **or** replacement individual onsite subsurface sewage disposal systems.

~~H~~**G**. **Neighborhood Circulation Plan. All proposals shall include neighborhood circulation plans that conceptualize future street plans and lot patterns to undeveloped parcels within 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 identified in the TSP and maximum street spacing standards. A circulation plan is conceptual in that its adoption does not establish a precise alignment. An applicant is required to submit a circulation plan unless the applicant demonstrates to the Planning Official (or designee) one of the following:**

1. 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 500 feet of the proposed development; or

2. 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.

16.50.030. Transportation standards.

A. All streets and roads and other transportation facilities constructed or reconstructed within the City shall meet the following standards.

2. The 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) **unless a wider section is required per the traffic analysis**~~, 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~~.

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.~~ **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.**

~~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.~~

7. Private Streets **and Access Drives**. Private streets**, alleys, and access drives** 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, **townhouse,** 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 access drives may be placed in a shared access easement when serving three dwelling units or less and shall include a recorded maintenance agreement.** Private ~~streets~~ **accesses or drives** serving multifamily housing developments shall provide commercial drives in conformance with the City's Transportation System Plan and Engineering Design and Standard Details Manual. Homeowners Associations (HOA's) shall enforce no parking in private tracts, including private streets and alleys via the HOA's bylaws and/or covenants, conditions, and restrictions (CC&R's).

C. Street and Road Access Control.

2. When a partition, subdivision or a ~~planned unit development~~ **flexible land division** 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~~ **the proposed lots shall have frontage on the arterial** streets **but no access**.

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.~~

16.50.050. Sanitary sewer, storm drainage and water service improvements.

B. Domestic Water and Fire Protection Service Requirements.

2. All subdivisions **and** ~~or planned unit developments~~ **flexible land divisions** 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~~ **flexible land division** ~~(See Section 16.50.030 and any other applicable sections)~~.

16.50.070. Utilities.

A. Purpose. Approval of a partition, subdivision, ~~planned unit development~~ **flexible land division**, 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.

CHAPTER 16.61
TYPES OF REVIEW PROCEDURES

16.61.010. Purpose and applicability of review procedures.

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 **multiple** ~~eight~~ types of permit/approval procedures: Types I, II, ~~II-DR~~, III-PC, III-PC/CC, III-DRB, III-HO**, IV (Quasi-Judicial)** and IV **(Legislative)**. ~~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.

~~1. 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.~~

~~2.~~ **3.** Type III-PC Procedure (Quasi-Judicial). A Type III-PC decision is made by the Planning Commission, Design Review Board, or Hearings Officer at a public hearing. ~~Certain types of Planning Commission Type III decisions (see Table 16.61.010-1) are a recommendation to the City Council.~~

~~3.~~ **4.** 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 20 acres or above) is considered initially by the Planning Commission which makes a recommendation to the City Council. **Both the Planning Commission and the City Council conduct hearings prior to their recommendations and decisions, respectively.**

~~4.~~ **5.** 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 **after a hearing**.

~~5.~~ **6. Type IV Procedure (Quasi-Judicial). Type IV procedures apply to Quasi-Judicial matters. A Type IV quasi-judicial 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. Both the Planning Commission and the City Council conduct hearings prior to their recommendations and decisions, respectively.**

~~6.~~ **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~~ **large scale** 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. **Both the Planning Commission and the City Council conduct hearings prior to their recommendations and decisions, respectively.**

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 Chapter 16.13. 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	General Applicable Regulations (not an ~~exclusive~~ **exhaustive** list ~~for crafting findings~~)
Annexation (non-expedited)	Type IV	Chapter 16.67
Annexation (expedited)	Type IV [3]	Chapter 16.67
Code Interpretation	Type I/II (Depending on Discretion)	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 **I/**II-PO	Chapter 16.62[2]
Design Review—Subject to ORS 197A.400(1)	**Type II-PO**	**Chapter 16.62[2]**
~~Design Review—Minor~~	~~Type II-HO~~	~~Chapter 16.62[2]~~
Design Review—Major **not subject to ORS 197A.400(1)**	Type III-DRB**/HO**	Chapter 16.62[2]
Flexible Design Review	**Type II/III-HO or DRB**	**Chapter 16.62[2]**
Flexible Land Division (4—9 lots)	**Type II**	**Chapter 16.63**
Flexible Land Division (10—49 lots)	**Type III-HO**	**Chapter 16.63**
Flexible Land Division (50 lots or larger)	**Type III-PC**	**Chapter 16.63**
Home Occupation Permit	Type III-HO	Section 16.69.020
Lot Line Adjustments and Lot Consolidations, including Re-Plat	Type I	Chapter 16.63
Lot of Record Determination	Type I/II (Depending on Discretion)	Chapter 16.72
Master Planned Development (Preliminary) **not subject to ORS 197A.400(1)**	Type III-PC	Chapter 16.65
Master Planned Development (Preliminary) subject to ORS 197A.400(1)	**Type II-PO**	**Chapter 16.65**
Master Planned Development (Final)	Type II	
Modification to Approval		
Minor	Type I/II	Chapter 16.66
Major	Same as Approval Being Modified	

Environmental Review Permit		
Steep Slopes Development Overlay Zone	Type I/II	Chapters~~s~~ 16.32~~,~~
Historic Properties Overlay Zone	Type I/II	**Chapter 16.33**
Natural Resources Overlay Zone	Type I/II	**Chapter** 16.34~~,~~
Flood Management Overlay Zone	Type I/II	~~and~~ **Chapter** 16.35
~~Environmental Review Permit~~	~~Type II~~	~~Chapters 16.32, 16.34, and 16.35~~
Nonconforming Use or Development Confirmation	Type I/II (Depending on Discretion)	Chapter 16.72
Partition (2 - 3 lots)	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 RePlat	Type I	Chapter 16.63
Sign Permit	Type I	Chapter 16.45
~~Public Right-of-Way Vacation~~	~~Type IV~~[3]	~~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 B	Type I	Section 16.42.050
Variance		
Class B	Type II	Section 16.71.040
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.

3 The expedi~~a~~ted Type IV review shall be sent directly to the City Council for review and shall not be considered by the Planning Commission.

16.61.030. Type II procedure (administrative).

C. Notice of Application for Type II Administrative Decision.

1. **For applications not including the development of housing subject to ORS 197A.400(1), b**~~B~~efore making a Type II Administrative Decision, the Planning Official or designee shall mail notice to:

a. All property owners of record within 300 feet of the subject site; **and**

b. All active City-recognized neighborhood groups or associations whose boundaries include the site~~;~~**.**

~~c. 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~~

~~d. Clackamas County, METRO, and the Oregon Department of Transportation when the proposed development abuts or significantly affects agency's transportation facility.~~

2. ~~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 decision is made.~~ **For applications including the development of housing subject to ORS 197A.400(1), before making a Type II Administrative Decision the Planning Official or designee shall mail notice to all property owners of record within 100 feet of the subject site. If the proposed development includes 20 or more dwelling units, mailed notice shall be provided to all property owners of record within 300 feet of the subject site. This section is not applicable to flexible land divisions and/or flexible design review.**

3. Signs. The applicant shall post at least one sign for every 300 feet of the exterior frontage. The sign will be provided by the City and shall remain continuously posted for at least 14 days prior to the end of the public written comment period. A statement of posting shall be submitted to the Planning Official.

4. The Planning Official or designee shall seek comment from:

a. Clackamas County, METRO, and the Oregon Department of Transportation when the proposed development abuts or significantly affects agency's transportation facility; and

b. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City and any other affected agencies with review authority for the application. The failure of another agency to respond with written comments on a pending application shall not invalidate an action or permit approval made by the City under this Code.

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.

~~3. 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 300 feet of the exterior frontage. Such sign shall remain continuously posted for at least 14 days prior to the end of the public written comment period. A 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.~~

G. Appeal. A Type II administrative decision **not for the development of housing subject to ORS 197A.400(1)** may be appealed to the City Council per section 16.61.055. **Only the applicant may appeal a Type II administrative decision for the development of housing subject to ORS 197A.400(1) to the City Council per section 16.61.055.**

16.61.040 Type III-HO, Type III-PC, Type III-DRB and Type III-PC/CC procedure (quasi-judicial).

A. Type III-HO, Type III-PC and Type III-PC/CC, Type III DRB procedures apply to all quasi-judicial decisions that involve the use of discretion and include but are not limited to uses specified in Table 16.61.010-1. The City Council may call up the application for review if it is determined to be in the public interest. ~~Said decision shall be made within the appeal period.~~

D. Notice of Hearing.

1. Mailed Notice. The City shall mail notice of a 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 shall be given by the Planning Official or designee in the following manner:

a. At least 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 300 feet of the subject site;

~~iii. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into~~

~~with the City and other affected agencies deemed applicable by the Planning Official;~~
~~iv. The road authority, and rail authority and owner, when the proposed development abuts or significantly affects their transportation facility;~~
~~v. The owner of an airport in the vicinity shall be notified in accordance with ORS 227.175 when the application proposes a zone change;~~
~~vi~~**ii**. Any active neighborhood or community organization recognized by the City Council and whose boundaries include the property proposed for development;
iv~~ii~~. For an appeal, the applicant, the appellant and all persons who provided testimony in the original decision;
v~~iii~~. 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
vi~~x~~. For expedited annexations, all interested and necessary parties, as defined by the Metro Code, shall be notified by mail.

4. The Planning Official or designee shall seek comment from:

a. Any governmental agency that is entitled to notice under an intergovernmental agreement entered into with the City;

b. Clackamas County, METRO, and the Oregon Department of Transportation when the proposed development abuts or significantly affects agency's transportation facility; and

c. The owner of an airport in the vicinity shall be notified in accordance with ORS 227.175 when the application proposes a zone change.

16.61.050. Type IV procedure (legislative or quasi-judicial).

16.61.055. Appeal of a Type II or Type III decision.

A. Appeal. A Type II decision may be appealed as follows:
1. Who May Appeal. The following people have legal standing to appeal a Type II decision:
a. **Except for the development of housing subject to ORS 197A.400(1):**
i~~b~~. The applicant or owner of the subject property;
ii~~e~~. Any person who was entitled to written decision;
iii~~d~~. Any other person or group who participated in the proceeding while the record was open.

b. The development of housing subject to ORS 197A.400(1) may only be appealed by the applicant.

16.61.060. General provisions ~~— 120-day rule~~ decision timelines; time computation; pre-application conferences; acceptance and review; planning official's duties, amended applications; re-submittal; reconsiderations.

A. ~~120-day Rule~~ **Decision Timelines**. The City shall take final action on ~~Type I—III~~ applications **as defined in ORS 227.178(12)**, including resolution of all appeals, within ~~120 days from the date the application is deemed complete~~,
the shortest applicable period of the following periods, all of which begin on the date that the application is deemed complete unless the applicant requests an extension in writing:
1. 120 days;
2. 100 days, for an application for the development of affordable housing as provided in ORS 197A.470; or
3. 63 days, for an expedited land division under ORS 197A.140 and middle housing land divisions under ORS 92.031.
~~unless the applicant requests an extension in writing.~~ Any exceptions to this rule shall conform to the provisions of ORS 227.178.

C. Pre-application Conference.
~~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.
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 **lots or** parcels of land, the

proceedings may be consolidated for review and decision at the discretion of the ~~City~~ **applicant, unless disallowed by law**.

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, **Design Review Board,** 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.

3. Check for acceptance and completeness. In reviewing an application for completeness, the following procedure shall be used:

b. Completeness.

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 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~~ **receives such notice**.

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.~~ **The city's review of an application is based only on consistency with the requirements of the city's development code. The applicant is solely responsible for ensuring that the application complies with all other applicable laws. Approval or denial of an application must be based upon the standards and criteria that were applicable at the time the application was first submitted or for an application relating to development of housing, upon the request of the applicant, those standards and criteria that are operative at the time of the request.**

If an applicant requests review under different standards as provided in this subsection:

A. For the purposes of this subsection, any applicable timelines for completeness review and final decisions restart as if a new application were submitted on the date of the request;

B. The city may deny the request if:

1. The city has issued a public notice of the application; or

2. A request was previously made.

C. The city may not require that the applicant:

1. Pay a fee, except to cover additional costs incurred by the city to accommodate the request;

2. Submit a new application or duplicative information, unless information resubmittal is required because the request affects or changes information in other locations in the application or additional narrative is required to understand the request in context; or

3. Repeat redundant processes or hearings that are inapplicable to the change in standards or criteria.

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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**A**.~~360~~**140** through **ORS** 197**A**.~~380~~**142**.

1. Selection. An applicant who wishes to use an ELD procedure for a partition~~,~~ **or** 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 the right to use it is waived.
2. Review Procedure and Approval Criteria. **ELDs are processed as described in this subsection (A) and in subsections (C) and (D) below.** All applications for expedited land divisions shall comply with **ORS** 197**A**.~~360~~**140** through 197**A**.~~380~~**142**, ~~and the Happy Valley Comprehensive Plan~~, **the applicable** zoning designation**(s)**, and **requirements of a subdivision in Section 16.63**~~submittal requirements in Section 16.61.030(B)(2)~~. A pre-application conference is required in accordance with Section 16.61.060 prior to submittal of an application.
   a. **To be eligible f**~~F~~or an ELD ~~to be considered for a townhome, duplex, triplex, quadplex or cottage development,~~ the ~~proposed division~~ **applicant** must demonstrate how it complies with the following:
      i. The ~~parent lot~~ **proposal includes only land that** is zoned for residential use and is within the urban growth boundary.
      ii. The ~~parent lot~~ **proposal** 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 (Chapter 16.32);
      ii. Historic Properties Overlay Zone (Chapter 16.33);
      iii. Natural Resources Overlay Zone (Chapter 16.34);
      iv. Flood Management Overlay Zone (Chapter 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:
   i. Creates enough lots or parcels to allow building residential units at 80% or more of the maximum net density permitted by the zoning designation of the site; or
   ii. All dwellings will be sold or rented to households with incomes below 120% 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 described in subsection ~~(C)~~(9) ~~through (C)(11) of this section. 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:~~ **in this subsection (B) and in subsections (C) and (D) below.**

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.~~ A pre-application conference is required in accordance with Section 16.61.060 prior to submittal of an application. **A middle housing land division may be reviewed concurrently with a land division.**
2. Approval Criteria. The applicant for a MHLD shall demonstrate that the application meets **all** 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.~~ **land use regulations under ORS 197A.420 (5) that are applicable to the original lot or parcel and consists of:**

i. A single duplex, triplex, quadplex, cottage cluster or structure containing townhouses;

ii. Additional units as allowed by ORS 197A.421 (3); and

iii. Retained or rehabilitated existing units allowed under ORS 197A.420 (4), if any.

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 Section 16.63~~.060(C)~~ **and 16.50** 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:

i. L~~l~~ots, parcels, or tracts used as common areas~~, on which no dwelling units will be permitted~~.

ii. Lots or parcels with a detached single-unit dwelling and accessory dwelling unit or a duplex as allowed under ORS 197A.420 (4).

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 buildings 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~~ **the parent lot or parcel did not previously provide a right-of-way dedication**, additional right-of-way will be dedicated, pursuant ~~Section 16.63.060(D)~~ **to 16.50**.

3. Preliminary Plat Submittal. In addition to the items listed in Sections 16.63~~.060 and 16.61.030(B)(2)~~, an application for a MHLD shall include the following:

a. A description of the manner in which the proposed division complies with each of the provisions of subsection ~~2~~**1** 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 Section 16.63~~.060~~, copies of a plat showing the following details:

i. Separate utility connections for each dwelling unit, demonstrating compliance with approval criterion in subsection (B)(~~2~~**1**)(b) of this section.

ii. Existing or proposed easements necessary for each dwelling unit on the plan, demonstrating compliance with the criterion Section 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:

(A) The approval was given under ORS ~~Chapter~~ 92**.031**.

~~(B) 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.~~

(~~C~~**B**) **New a**~~A~~ccessory 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 Section 16.63~~.040~~, the City shall use the following procedure for an expedited land division (ELD)~~, as described in ORS 197.360, or~~ **and** a middle housing land division (MHLD).

1. Completeness Review. **Completeness review shall be conducted in accordance with 16.61.060.D.**

~~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. **A statement that no third party may intervene to oppose the application;**

ii. ~~i.~~ The deadline for submitting written comments;

iii. ~~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~~

iv. ~~iii.~~ A statement ~~that~~ **of** issues must be raised with sufficient specificity to enable the local government to respond to the issue~~.~~**;**

v. ~~iv.~~ The applicable criteria for the decision~~.~~**;**

vi. ~~v.~~ The place, date, and time that comments are due~~.~~**;**

vii. ~~vi.~~ A time and place where copies of all evidence submitted by the applicant will be available for review~~.~~**;**

viii. ~~vii.~~ The street address or other easily understood geographical reference to the subject property~~.~~**;**

ix. ~~viii.~~ The name and telephone number of a local government contact~~.~~**; and**

x. ~~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. No third party will be permitted to intervene to oppose the application.

~~5~~**6**. The Planning Official shall make a decision on the application within 63 days of receiving a completed application.

~~6~~**7**. 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~~**8**. Notice of the decision shall be provided to the applicant ~~and to those who received notice under subsection (C)(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~~**830 to 197.855**.

~~5. 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 (C)(2)(b) of this section is not a land use decision or limited land use decision.~~

~~6~~**9. The City's decision may be appealed to the City Council.** ~~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 subsection (C)(3) of this section. The appeal must include the appeal application and a three hundred dollar ($300.00) deposit for costs.~~

~~6. 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 subsection B of this section, (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.~~

~~7. 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 (Section 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 Section 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~~ **is encouraged to** hold a meeting with adjacent property owners who will receive public notice ~~(a minimum 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) **or traffic impact analysis** 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 20% or more;
5. An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 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.

A traffic impact analysis is not required for an individual middle housing development allowed under ORS 197A.420 except for developments of townhouses or cottage clusters with more than 12 units, or lots or parcels created by a division of land, other than a middle housing land division, that occurred within the previous five years.

CHAPTER 16.62
LAND USE REVIEW AND DESIGN REVIEW

16.62.020. Review types and applicability.

A. Review Types.
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**~~			
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	
Creation **or modification** of **single-family detached,** single-family attached**/townhouse**, duplex, triplex, quadplex, or cottage cluster housing ~~through internal conversion of, or addition to, existing dwellings~~ [1]	PO		

~~**New Construction**~~			
~~Single-family detached dwelling (including manufactured home on its own lot), single-family attached dwellings (townhomes), duplexes, triplexes, quadplexes, cottage clusters~~	~~PO~~		
Creation or modification of m~~M~~ultifamily residential developments[1] ~~30 dwelling units or less~~		PO	
~~Residential developments of 31 to 60 dwelling units~~			~~HO~~
~~Residential developments of 61 dwelling units or more~~			~~DRB~~
Nonresidential development up to 1,000 square feet (structures only) in size if there is no discretion in the applicable review.	**PO**		
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 **and greater** (structures only) in size			DRB
Flexible Design Review **30 dwelling units or less** **Nonresidential development up to 5,000 square feet (structures only) in size**		**PO**	
Flexible Design Review **Residential developments of 31 to 60 dwelling units** **Nonresidential development between 5,001 and 14,999 square feet (structures only) in size**			**HO**
Flexible Design Review **Residential developments of 61 dwelling units or more** **Nonresidential development greater than 15,000 square feet (structures only) in size**			**DRB**
~~**Nonresidential and Multifamily Additions and Remodeling**~~			
~~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:~~	PO		
~~Enlarging or extending a nonconforming use~~ ~~Increases the building footprint or height~~ ~~Modifies more than 25 percent of the facade or, if the property abuts property zoned for residential use, modifies any portion of the facade visible from the residentially zoned property~~		~~PO~~	
~~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~~			~~HO~~
~~A tenant improvement including re-painting of more than 50 percent of the total façade~~	~~PO~~		
~~**Other Activities**~~			
~~Modifications to single-family detached dwelling~~	~~PO~~		

~~(including manufactured home on its own lot), single-family attached dwellings (townhomes), duplexes, triplexes, quadplexes, cottage clusters~~			
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		
Construction of retaining walls over 12 feet in height		PO	
Dredging, filling, grading, paving, construction of retaining walls 4 to 12 feet in height	PO		

~~Notes:~~

~~1 The following applies to conversion of any housing type to single-family attached, duplex, triplex, quadplex or cottage cluster housing:~~

~~A. The converted housing type is a permitted use in the underlying zone.~~

~~B. With the exception of minimum parking requirements, the conversion does not create a nonconforming use or increase nonconformance with applicable development or design standards.~~

~~C. With the exception of conversions to cottage clusters, middle housing conversions are exempt from additional residential design standards found in Article 16.4 of this title.~~

~~D. Separate utility connections are provided or available for the additional unit(s), either on the side or front of the house.~~

16.62.030. Design review.

P. Flexible Design Review. The flexible design review process offers flexibility and incentives in exchange for opportunities for greater public involvement in the development review process.

1. Applicability. Any applicant may opt for review through the flexible design review process.

2. Review Process. The process, submittal requirements, and timelines shall mirror the applicable design review process with the following exceptions:

a. The review shall be processed by the body identified in Table 16.62.020-1.

b. The notice, comment, and appeal procedures for housing are not subject to ORS 197A.400(5).

3. Criteria.

a. A density bonus of 10% additional dwelling units shall be granted if requested.

b. In addition to all criteria that apply to the design review, a modification of development standards within Title 16 may be granted. The review body may approve modifications if the following approval criteria are met:

i. The modification is not prohibited.

ii. The modification will result in a development that better meets the intent of the standard.

4. Phased Development. Phasing of development may be approved with the flexible design review application, subject to the following standards and procedures:

a. A phasing plan shall be submitted including 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.

b. An application for phased development must satisfy all of the following criteria:

i. The public facilities required to serve each phase are constructed in conjunction with or prior to the phase;

ii. 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; and

iii. 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.

16.62.040. Development in accordance with permit approval—Modifications—Permit expiration.

~~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

16.63.020. General requirements.

A. **Flexible Land Division,** Subdivision and Partition Approval Through Two-step Process. Applications for **a flexible land division,** 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~~ **comply with** all conditions of approval of the preliminary plat.

B. The following conditions, regulations and restrictions shall apply to all methods of development **associated with this chapter**:

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~~**C**. Future Re-division Plan. When subdividing or partitioning ~~tracts~~ **land** into ~~large lots or~~ **lots or parcels** ~~(~~i.e., greater than two times ~~or 200% the~~ minimum lot size allowed by the underlying land use district~~)~~, the **applicant** ~~City~~ shall **submit a re-division plan demonstrating the oversized parcel could be further subdivided in such a way that complies with:** ~~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 t~~**T**he density and lot size standards of Article 16.2;
2. ~~Potential s~~**S**treet right-of-way alignments to serve future development of the property**, comply with maximum block length,** and connect to adjacent properties, including existing or planned rights-of-way;
3. A **note including 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~~**D**. Density and Open Space Transfer Limitation.

1. Development may be clustered on site in order to avoid constrained or partially constrained land pursuant to the ~~PUD~~ **flexible land division** 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:
   a. Public facilities in a tract, including stormwater treatment;
   b. Public and private right-of-way;
   c. Land constrained by the Steep Slopes Development Overlay Zone in Chapter 16.32;
   d. Land constrained by the Natural Resources Overlay Zone in Chapter 16.34;
   e. 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 subsections (F)(1)(a) – (d) above~~.
2. 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 Section 16.32.090 and/or Section 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~~ **flexible land division** or Design Review process. The density transferred to the unconstrained portions of the site shall not exceed 175 percent of the density permitted by the underlying zoning district. When a development district allows for different densities based on use, the density calculations shall be calculated based on the proportion of those uses which are represented within that development district in the project area. Resulting density calculations shall be rounded down to the nearest whole dwelling unit.

3. 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 may be included in the calculation for the purposes of calculating density or satisfying minimum lot size of the adjacent property.

~~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 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 a land division shall have adequate public utilities and facilities such as sewer, and water systems per Chapter 16.50. 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 lots created through a land division shall have adequate surface water drainage facilities that reduce exposure to flood damage and improve water quality per Chapter 16.50. Water quality or quantity control improvements may be required.~~

~~L~~**E**. 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 Section 16.50.030, 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 50 lots may have the same front or street-facing façade. This standard is met when street-facing façades differ from one another by a minimum of three of the elements listed in subsections (N)(1) – (7) below. Mirrored/flipped floorplans are not allowed.~~

~~a. Different exterior cladding materials, a different combination of materials, or significantly different dimensions, spacing, or arrangement of the same materials.~~

~~b. Different offsets, recesses, or projections; or the building elevations break in different places.~~

~~c. 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 two feet of vertical rise to 12 feet of horizontal run.~~

~~d. Different configuration or detailing of the front porch or covered entrance.~~

~~e. Different placement, shape, or orientation of windows or different placement of doors.~~

~~f. Different number of building stories.~~

g. 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 10% 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 5,000 square feet within 80% of the net developable area of the subject development (and within the 20% remainder area, lot sizes may decrease by a maximum of 10%); 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 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.

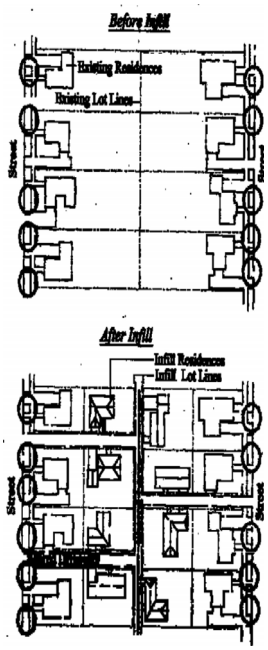


Figure 16.63.030-1 Mid-block Infill

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 12 feet

within a 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 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.

E. Phased Development.

a. 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.

b. The criteria for approving a phased land division proposal are:

i. Public facilities shall be constructed in conjunction with or prior to each phase;

ii. 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;

iii. 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

iv. 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" (24 by 36 inches) and "one-half size" (11 by 17 inches) and maintain a standard engineering scale at printed size.

b. Neighborhood Circulation Plan. All partition proposals shall include neighborhood circulation plans that conceptualize future street plans and lot patterns to undeveloped parcels within 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 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" (24 by 36 inches) and "one-half size" (11 by 17 inches) and maintain a standard engineering scale at printed size. 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 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 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, a copy of the preliminary draft, their contracts and/or bylaws, shall be submitted with the preliminary subdivision plat or planned unit development plan.~~

~~B.~~ **A.** Preliminary Plat Information. ~~In addition to the general information described in subsection A above, t~~**T**he 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:

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 **Title 16** ~~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;~~

m~~n~~. Evidence of contact with/from the road authority for any development requiring access to its facility(ies); and

n~~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).

o~~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.

4. Additional Studies

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. 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 identified in Title 16. For each public facility system and type of impact, the study shall propose improvements necessary to meet Title 16 and shall include a discussion of the system's capacity to serve the additional development, and identify if there is a need for annexation into any service district;**

b. **Traffic Impact Study. Traffic impact studies shall conform to the standards and procedures in Title 16.**

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. **Neighborhood Circulation Plan per 16.50.020.**

f. **Bylaw Requirements. If a homeowners association is required, a copy of the preliminary draft, their contracts and/or bylaws, shall be submitted with the preliminary subdivision plat or flexible land division plan.**

16.63.060. Approval criteria—Preliminary plat.

A. General Approval Criteria. ~~The City may approve, approve with conditions or deny~~**A n a p p l i c a t i o n f o r** a preliminary plat ~~based on the~~ **must meet the** following **general** 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;~~ **land division shall comply with:**
   a. Land use district development standards in 16.2;
   b. Specific area plan districts and overlay zones in 16.3;
   c. Access and Circulation in 16.41;
   d. Landscaping, Fences and Walls, Recreation Areas in 16.42;
   e. Parking and Loading in 16.43;
   f. Special Standards for Certain Uses in 16.44;
   g. Public Facilities in 16.50;
   h. Administration of land Use and Development in 16.6;
   i. Land Divisions and Property Line Adjustments in 16.63; and
   j. Exception to Code Standards in 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~~ **existing and approved developments** 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 a~~**A**ny required State and Federal permits have been obtained, or shall be obtained before approval of the final plat;
6. ~~Evidence that i~~**I**mprovements 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**s** to the applicable regulations and/or conditions.
   8. 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 has been submitted.

B. Layout and Design of Streets, Blocks and Lots. **In an application for a preliminary plat, a**~~A~~ll proposed blocks, lots and parcels **must** 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).~~ **The proposed streets, roads, sidewalks, bicycle lanes, pathways, utilities, and surface water management facilities connect to existing, approved, and the approximate location of future facilities on adjoining property. All proposed public improvements and dedications shall be identified on the preliminary plat.**
3. ~~Each lot shall conform to the standards of Chapter 16.41, Access and Circulation.~~ **Future Street Plans. Plan shall demonstrate the building placement and alignment of shared drives will not prohibit future street connections required in Title 16.**

~~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.~~

4~~5~~. ~~In conformance with the Uniform Fire Code, a 20 foot width fire apparatus access drive shall be provided to serve all portions of a building that are located more than 150 feet from a public right-of-way, private street or approved access drive. See Chapter 16.41, Access and Circulation.~~ **Flag Lots. Flag lots may be created only when a street cannot be**

extended to serve the lot, abutting uses or future development.

a. The pole shall be part of the flag lot and shall remain a part of the same lot as the flag portion of the lot.

b. The pole portion of the flag lot shall connect to a street or tract.

c. The pole must be a minimum of one foot in width along the entire length of the pole.

d. The flag pole may serve no more than two dwelling units unless Oregon Fire Code standards are met for more units. When UFC standards are met, the maximum number of dwellings shall be four dwellings.

~~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~~**5**. 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.~~

6. Density and Open Space Transfer Limitation. 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 total number of units allowed on a site is determined by adding the number of units allowed on unconstrained portions of the site to the number units attributable to the constrained portions of the site. Constrained land includes any portion of the site with one or more of the following characteristics:

a. Public facilities in a tract, including stormwater treatment;

b. Public and private right-of-way;

c. Land constrained by the Steep Slopes Development Overlay Zone in Chapter 16.32;

d. Land constrained by the Natural Resources Overlay Zone in Chapter 16.34;

e. 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 subsections above.

No units are attributable to constrained land except for the reduced rate within the Steep Slopes Development Overlay Zone and the Natural Resources Overlay Zone per LDC Section 16.32.090 and/or Section 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. Resulting unit calculations shall be rounded down to the nearest whole dwelling unit.

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. If a density is undefined, the lowest density for the development district shall apply.

The units attributable to 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 flexible land division or design review process. The units transferred to the unconstrained portions of the site shall not exceed 175 percent of the units permitted in the unconstrained portion by the underlying zoning district. When a development district allows for different densities based on use, the unit calculations shall be based on the proportion of those uses which are represented within that development district.

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 may be included in the calculation for the purposes of calculating the total number of units or satisfying minimum lot size of the adjacent property.

7. Park, Open Space, and Trail Dedications. Where the Comprehensive Plan designates the subject property for park, open space, or trail use, dedication of the land area identified in the Comprehensive Plan shall be provided.

8. Shared outdoor recreation areas.

a. Applicability. The standards of this section apply to land divisions (other than middle housing land divisions) with a minimum of 2 acres of unconstrained land. The standards

of this section do not apply to flexible land divisions or multifamily housing.

b. Density. Applicants may include the recreation area tract in order to achieve the permitted density.

c. Recreation area shall be placed in a tract with the following standards:

i. **Area Required. Shared outdoor recreation area(s) shall be a minimum of 2.5% of the unconstrained land.**

ii. **Size. Land divisions that require at least 5,000 square feet of shared outdoor recreation area must provide at least 5,000 square feet that is in a single tract;**

iii. **Location. No more than 50% of each recreation area tract may be in a Natural Resources Overlay Zone or in a Flood Management Overlay Zone;**

iv. **Accessibility. Each recreation area tract must have at least 40 feet of street frontage;**

v. **Each recreation area tract shall include at least two of the following improvements: children's play equipment, picnic areas, open lawn, benches, paved walkways or trails, gardens, or organized sport fields or courts. The recreation area improvements shall be installed prior to final plat approval.**

vi. **A landscape plan for all recreation areas shall be prepared by a certified professional biologist, ecologist and/or landscape architect including:**

A. 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 50% groundcover of the site and shall provide for at least 20% of the site being planted with a mix of trees and shrubs. Use of native plant species is encouraged.

B. 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), 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.

C. 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.

vii. **Ownership. The tract(s) 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**

viii. **A 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, public agency, or Happy Valley). If the open space is dedicated to the homeowner's association, the covenants, conditions, and restrictions shall include a provision requiring the homeowner's association to abide by the approved 10 year maintenance plan.**

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,~~ **along the public and private right-of-way. E**easements shall be continuous, aligned from block to block within the development and ~~compatible with adjoining~~ **align with** existing developments. All easements shall not be less than ~~five~~ **eight** 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.~~ **Where a driveway serves more than one lot, a reciprocal easement which will ensure access and maintenance rights shall be recorded with the approved plat.**

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 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.~~ **Recording of easements or separate tracts, as applicable, shall be so indicated on the face of the plat.**

D. Minimum Improvement Standards.
   1. All new street**s and 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~~ **land divisions** shall be developed as City streets regardless of the size of the total development or the average lot size within the development; **however,** 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~~ **all** roads within a ~~planned unit development~~ **flexible land division**;
      d. To ~~i~~**e**nsure maintenance of such private roads there shall be established within the organization of any land division a legal and permanent procedure to ~~i~~**e**sure 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 development~~ **flexible land divisions** shall be a continuation of a County road or City street. A private street **may serve as an alternative if approved by the City Engineer** ~~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 **Title 16 and** ~~the City's existing street development pattern and~~ the adopted transportation plan.

E. ~~County Surveyor's Requirements. The Clackamas County Surveyor shall require that a~~**A**ll surveying and monumentation **must** 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. (Ord. 389 §~

1(Exh. A), 2009)

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, longrange 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 10% 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 50 or more acres on which are proposed to be developed more than 100 units;

3. 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:

i. Density.

1. Density shall be calculated through Section 16.63.020(F).
2. 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,.
3. 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.
4. If a use is proposed that is not permitted except through the Planned Unit Development process, the lowest density for the development district shall apply, based on the lower of minimum lot size or dwelling units per net acre.

ii. Open Space.

1. All planned unit developments shall have a minimum of 20% 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 20% 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.
2. 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.
3. 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.

4. 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 125% 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.
5. 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.

iii. 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:

1. Clearly defined methods for improving and protecting native vegetation and habitat on the site and mitigating the impacts of the proposed PUD;
2. 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;
3. 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;
4. 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;
5. Plantings shall be of a sufficient quantity to provide structurally diverse vegetation on the site;
6. Native vegetation shall be verified by the professional preparing the plan to cover at least 70% of the site in five years. Plantings shall be arranged to replicate natural conditions, using methods such as clustering where appropriate. Exceptions to 70% 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;
7. 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 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;

8. 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 wildlife 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;

9. 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;

10. 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;

11. A 10year 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 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 10-year maintenance plan or provide an alternative plan for approval by the Planning Official or designee.

iv. 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 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:

1. 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 50% groundcover of the site and shall provide for at least 20% of the site being planted with a mix of trees and shrubs. Use of native plant species is encouraged;

2. 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 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;

3. 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;

4. 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;

5. A 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 10year 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 10year maintenance plan or provide an alternative plan to be approved by the Planning Official or designee;

6. 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;

7. 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.

v. 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 20 feet from a public right-of-way and minimum lot size for single-family detached lots shall not be less than 5,000 square feet within 80% of the net developable area of the subject development. Within the 20% remainder area, lot sizes may decrease by a maximum of 10%. 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 75% 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.

~~vi. Staging.~~

~~1. 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 80% complete within itself before the successive stage may be commenced.~~

~~2. 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.~~

~~E. Minimum Design Standards. As pursuant to Section 16.63.060(B).~~

~~F. Minimum Improvement Standards. As pursuant to Section 16.63.060(D).~~

~~G. Final Procedure – Planned Unit Development.~~

~~a. As pursuant to Section 16.63.080;~~

~~b. Changes and Modifications.~~

~~i. 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.~~

~~H. Density Calculations.~~

~~a. 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.~~

~~b. Benefit. The following benefits may accrue to the property developer and the City from density calculations:~~

~~i. The minimal extension of services within a cluster as opposed to the entire parcel;~~

~~ii. Overall reduced development costs and the resultant lower housing prices;~~

~~iii. Greater ease of maintenance of services and facilities;~~

~~iv. Energy savings;~~

~~v. Open space;~~

~~vi. Greater efficiency of land use;~~

~~vii. Protection of slope and resource areas, such as drainageways and creek channels, and hazard areas.~~

~~c. Procedure. Density calculations shall be determined by the procedures in Section 16.63.020(F).~~

16.63.130. Flexible land division.

A. Purpose. This section of the Code serves to specify the purposes, objectives, procedures, standards, requirements, conditions and other information necessary to accomplish a flexible land division. The flexible land division process offers flexibility and incentives in exchange for opportunities for greater public involvement in the development review process. The purpose and intent of this section is to allow a larger public process with 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; and the creation of public and private common open space.

B. Applicability. Any applicant may opt for review of a land division through the flexible land division process.

C. An application may be submitted 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 flexible land division.

D. Filing Requirements. At the time of application, the developer shall submit all of the following:

1. All filing requirements in Section 16.63.050.

2. Tables illustrating overall density, density by dwelling types and details of any density bonus or calculations;

3. 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; and

4. General time table of development.

E. Approval Criteria.

1. The preliminary plat approval criteria as described in Section 16.63.020 and 16.63.060. If a conflict exists with the standards below, the standards within this section prevail.

2. After identifying any applicable density transfer, an additional density bonus of 10% shall be granted

if requested.

3. Lot Size and Dimensions. Minimum area, width, depth, frontage, lot coverage, and setback requirements may be less than development district except that the garage of any structure shall not be located less than 20 feet from a public right-of-way and minimum lot size for single-family detached lots shall not be less than 5,000 square feet within 80% of the net developable area of the subject development. Within the 20% remainder area, lot sizes may decrease by a maximum of 10%. 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 75% of the development district minimum lot size of the subject parcel. The extent of the flexibility is based on the overall quality and layout of the proposed development as well as amenities proposed.

4. Open Space.

a. All flexible land divisions shall have a minimum of 20% 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 20% requirement does not affect the density calculation.

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. Considering the existing and planned public parks within the City, publicly dedicated open spaces within any flexible land division should focus on activities not otherwise available or planned for in existing and planned public parks.

b. 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.

c. 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.

d. 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) are encouraged to be retained on the site

e. Open space areas shall provide assurance to the City for 125% 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.

5. Natural Area and Recreational Area. The required landscape plan for a natural area and recreational area shall be prepared by a certified professional biologist, ecologist and/or landscape architect and include:

a. Clearly defined methods for improving and protecting native vegetation and habitat on the site and mitigating the impacts of the proposed flexible land division;

b. 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;

c. 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;

d. 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;

e. Plantings shall be of a sufficient quantity to provide structurally diverse vegetation on the site;

f. Native vegetation shall be verified by the professional preparing the plan to cover at least 70% of the site in five years. Plantings shall be arranged to replicate natural conditions, using methods such as clustering where appropriate. Exceptions to 70% 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;

g. 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:

i. 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,

ii. Treatments for the control or removal of invasive plants in riparian/wetland areas shall be limited to hand or wick applications by qualified personnel,

iii. 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,

iv. Maintain unsprayed buffer areas near aquatic habitats and other sensitive areas. A minimum 200-foot radius, no-spray buffers shall be maintained around all known populations of sensitive, threatened and endangered plant and animal species,

v. 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;

h. 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;

i. A 10-year maintenance plan with cost projections to be provided to the future owners of the property (the homeowner's association, service provider, or Happy Valley). If the open space is dedicated to the homeowner's association, the covenants, conditions, and restrictions of the flexible land division shall include a provision requiring the homeowner's association to abide by the approved 10 year maintenance plan or submit an alternative plan to the Planning Official or designee for approval. If the open space or recreation area is dedicated to the City, the City Public Works Department agrees to abide by the 10 year maintenance plan or provide an alternative plan for approval by the Planning Official or designee.

6. 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.

a. 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;

b. 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;

c. 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.

7. In addition to all criteria that apply to land divisions, a modification of development standards within Title 16 may be granted. The review body may approve modifications if the following approval criteria are met:

a. The modification is not prohibited.

b. The modification will result in a development that meets the intent of the standard.

F. Phased Development. Phasing of development may be approved with the flexible design review application, subject to the following standards and procedures:

a. A phasing plan shall be submitted including 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.

b. An application for phased development must satisfy all of the following criteria:

i. The public facilities required to serve each phase are constructed in conjunction with or prior to the phase;

ii. 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; and

iii. 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.

G. Final Procedure—flexible land division. Approval of a final plat for an flexible land division shall be consistent with the review criteria for Land Divisions and Property Line Adjustments (Section 16.63).

CHAPTER 16.65
MASTER PLANNED DEVELOPMENTS

16.65.020 Applicability.

A. A master plan prepared in accordance with this chapter is required for the following:

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.~~ **Development within the Main Street District (MSD).**

5. All development on lots or parcels 10 acres in size or larger within the Rock Creek Mixed Employment District (RC-ME).

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~~ **unless it includes housing subject to ORS 197A.400(1), in which case it will be processed as a Type II application**.
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~~**D**. A neighborhood meeting is required prior to submittal of a preliminary master plan application **unless subject to ORS 197A.400(1)**. ~~In order t~~**T**o 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 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), and public facilities (Article 16.5).~~

~~The district standards in Article 16.2, and design standards of Article 16.4, and public facilities of Article 16.5 may be modified through the master plan approval without the need for variances if the proposal will be consistent with the purpose of the standard for which a modification is requested. The following standards shall not be modified:~~

~~A. Residential densities, as allowed under the Comprehensive Plan; and~~

~~B. 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 **master** 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;

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, 16.4, and 16.5, Standards. All of the land use, development, and design standards~~

~~contained in Articles 16.2, 16.3, 16.4, and 16.5 are met, except as may be modified in Section 16.65.040;~~

~~C. Open Space. A residential master plan shall contain a minimum of 20 percent useable open space and a nonresidential master plan shall contain a minimum of 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. Residential master plans containing multifamily developments are further subject to the usable open space requirements of Section 16.44.010(B)(9). 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;~~

A. Compliance with the applicable process and criteria for development such as design review or land division.

~~D~~**B**. 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**, based on the City's adopted Transportation System Plan and Capital Improvement Plan and any transportation improvements that may be constructed by the applicant,** there will be ~~adequate~~ **sufficient** capacity by the time each phase of development is completed. **For purposes of this section, "sufficient capacity" will exist when the increased vehicular and pedestrian traffic associated with the proposed development, as described in the Traffic Impact Study submitted by the applicant, will not cause any transportation facilities to exceed their maximum capacity as determined in accordance with a** ~~A~~dopted State and/or local mobility standards **and the Transportation Impact Analysis submitted by the applicant** ~~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~~**C**. Phasing Plan. The Phasing Plan demonstrates that the construction of ~~required~~ public facilities **serving each phase will** ~~shall~~ occur **prior to completion of each phase** ~~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~~**D**. Compatibility with Adjacent Uses. **For non-residential portions of a project t**~~T~~he 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. If a master plan is proposed for a portion of contiguous ownership, then the master plan must show transportation connections and other major functions on the contiguous land not included in the master plan;

~~H. 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:~~

~~a. To provide for a desirable urban living and working environment with a compact urban form, and a mixture of uses,~~

~~b. 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,~~

~~c. To encourage developers to use a more creative and flexible approach in the development of commercial and residential areas within the City,~~

~~d. To provide a process that allows creativity and flexibility.~~

16.65.090. Final master plan approval criteria.

The City ~~may~~ **will** approve the final master plan upon finding that the final plan conforms to the preliminary master plan and required conditions of approval **based upon review of an associated design review, land development or implementing process.** ~~Minor c~~**C**hanges 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,~~ **not meeting those criteria** 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 20%, 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 15% over that which is approved;

C. Reduction in open space or landscaping by no more than 10% 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 10%;

~~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~~**E**~~. Major c~~**C**hanges in the location of buildings, proposed streets, parking lot**s** ~~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~~ **less** than 100 feet, or 15%, **whichever is less,** 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.

2. The final master plan shall remain in effect for ~~not more than seven years unless modified as specified in Section 16.65.120~~ **the duration of the associated design review or land division**.

CHAPTER 16.66

MODIFICATIONS TO APPROVED PLANS AND CONDITIONS OF APPROVAL

16.66.020. Applicability.

A. This chapter applies to changes to all previously approved land use applications such as:
   1. Site design review approvals;
   2. ~~planned unit development~~ **flexible land division**s, subdivisions, partitions, and property line adjustments;
   3. Conditional use permits; and
   4. Master planned developments.

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. An increase in density by more than 15 percent;~~

~~2.~~ **1.** An increase in the floor area proposed for nonresidential use by more than ~~15 percent~~ **5,000 square feet**;

~~3. A reduction of more than 15 percent of the area reserved for common open space.~~

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**, an authorized agent thereof, or as required in the Oregon Revised Statutes** ~~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. **Except when initiated by the City or as required in the Oregon Revised Statutes, a** ~~A~~ change in the map which involves properties and/or district boundaries must be initiated by at least 75% of the property owners or authorized agents **in the affected area** who own or represent at least 75% of the land area involved in the ~~petition of change~~ **application**. 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.

~~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 provisions in Section 16.67.030(C).~~

16.67.030. ~~Quasi-judicial a~~**A**mendments.

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~~ **procedure identified in Table 16.61.010-1**~~, using standards of approval in Section 16.67.030(C)~~. The approval authority shall be as follows:

1. **Unless otherwise identified in 16.61.010, t**~~T~~he 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.

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~~ **an** amendment shall be based on all of the following criteria:

a. 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

b. Approval of the request is consistent with the applicable goals and policies of the City's Comprehensive Plan; and

c. 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

d. 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

e. 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) and Section 16.67.060. 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~~ **reviewing body**.

16.67.070. Annexations.

A. Except as provided in subsection B of this section, when the City Council approves the annexation of unincorporated territory, 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. Applications shall be processed as expedited if they are within an adopted Comprehensive Plan. An expedited annexation process shall be sent directly to the City Council for review. 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

Table 16.67.070-1 Land Designation Conversion Table	
Clackamas County Zone	City of Happy Valley Zone
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

Notes:

* 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~~ **recommended** 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.

CHAPTER 16.71
VARIANCES

16.71.020 Applicability and application requirements.

D. Application. The variance application shall conform to the requirements for Type 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. **Each Code standard to be modified shall require a separate variance request.**

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~~ **for up to 20% from any dimensional standard and development review standard or any residential standard unless otherwise prohibited** ~~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 20% from any dimensional development review standard except for lot area which shall be limited to 10% 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.~~

5. The variance will not result in violation(s) of any other adopted ordinance or Code standard; and

6. The variance will result in a development that better meets the intent of the standard being varied.

D. Variance to Vehicular Access and Circulation Standards **for Non-Residential Uses**. 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 **for Non-Residential Uses**. 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 **for Non Residential Uses**.
   1. The City may approve variances to the minimum 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;
      c. All other Code standards are met.
   2. The City may approve variances to the maximum standards for off-street parking (quantities and dimensions of parking spaces) in Chapter 16.43 upon finding all of the following:
      a. The use is not located within the "No Minimum Parking Requirements" overlay zone;
      b. The use is not subject to Footnote 4 in the City's Parking Table (Table 16.43.030-1);
      c. The use is not subject to maximum surface parking area requirements (Section 16.43.030.F.7);
      d. The use is not located within Climate-Friendly Areas (CFA), or within one-half mile walking distance of priority transit corridors;
      e. The use is not located within the Happy Valley Downtown District, Clackamas Regional Center or Happy Valley Town Center;
      f. The use is not a commercial or retail use other than automobile sales and repair, eating and drinking establishments, and entertainment and commercial recreation uses.
   3. 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.
   4. 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.
   5. 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 **for Non-Residential Uses**. The City may grant a variance to the applicable setback requirements of greater than 20% 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~~ **non-residential variances** that do not conform to the provisions of Section 16.71.040 (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~~ **if it meets** all of the following criteria:
   1. ~~For non-residential uses, t~~**T**he variance requested is required due to the lot configuration, or other conditions of the site;
   2. ~~For non-residential uses, t~~**T**he condition requiring the variance has not been intentionally created to circumvent the Land Development Code;
   3. ~~For non-residential uses, t~~**T**he variance 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. ~~For non-residential uses, t~~**T**he variance is the minimum variance that will afford relief and is the least modification possible of the development provisions which are in question;
   ~~5.For non-residential uses, t~~**T**~~he 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;~~ **and**

5~~6~~. 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~~;~~**.**

~~7. For the development of housing, the variance will result in a development that better meets the intent of the standard being varied.~~

CHAPTER 16.72
NONCONFORMING USES, STRUCTURES AND LOTS

16.72.035 Replacement of Dwellings Damaged or Destroyed by Natural or Involuntary Events

A. Purpose. The purpose of this section is to establish a process for the restoration or replacement of dwelling units damaged or destroyed by a natural or involuntary event. This section shall supersede any other section in 16.72 if utilized.

B. Approval Criteria. The City shall approve an application to restore or replace a dwelling damaged or destroyed by a natural or involuntary event when the applicant demonstrates compliance with all of the following criteria:

1. **Former Dwelling. The dwelling that was damaged or destroyed:**
   - **a. Had intact exterior walls and a roof structure;**
   - **b. Contained indoor plumbing, including a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;**
   - **c. Contained interior electrical wiring serving interior lighting;**
   - **d. Included a heating system; and**
   - **e. Was lawfully established as evidenced by one of the following:**
     - **i. Authorization through building permits or another applicable regulatory approval process; or**
     - **ii. Assessment as a residential dwelling for ad valorem taxation purposes during the tax year beginning July 1, ten (10) years prior to the application date, provided the dwelling is not subject to unresolved enforcement proceedings regarding its legality.**
2. **Replacement Dwelling. The proposed replacement dwelling:**
   - **a. Does not exceed the floor area of the former dwelling by more than twenty-five (25) percent;**
   - **b. Is adequately served by water, sanitary service, and road access;**
   - **c. Is located wholly or partially within the footprint of the former dwelling. Where compliance with floodplain regulations or avoidance of a natural hazard area prevents placement within the original footprint, the replacement dwelling may be located elsewhere on the same lot or parcel; and**
   - **d. Complies with applicable building code requirements in effect on the date the prior building was damaged or destroyed.**

C. Conditions of Approval. The City shall not impose additional conditions on the approval or siting of a replacement dwelling authorized by this section, except as necessary to maintain compliance with the National Flood Insurance Program.

D. Removal of Damaged Dwelling. Any damaged dwelling replaced under this section must be removed, demolished, incorporated into the replacement dwelling or converted to a nonresidential use within three months after the replacement dwelling is certified for occupancy.

E. Application Deadline. An application for replacement of a dwelling under this section shall be submitted no later than three years after the date of the natural or involuntary event that damaged or destroyed the dwelling.

F. Commencement of Construction. Construction of an approved replacement dwelling shall commence no later than four years following the date the approval becomes final.