

Title 1

GENERAL PROVISIONS

	Chapter 1.01 CODE	Chapter 1.16 CIVIL INFRACTIONS
§ 1.01.010.	Title.	Article I
§ 1.01.020.	Designations and References.	General Provisions
§ 1.01.030.	Title, Chapter and Section Headings.	§ 1.16.010. Title for Provisions.
§ 1.01.040.	Reference to Specific Ordinances.	§ 1.16.020. Establishment and Purpose.
§ 1.01.050.	Effect on Past Actions and Obligations.	§ 1.16.030. Definitions.
§ 1.01.060.	Constitutionality.	§ 1.16.040. Use of Language.
§ 1.01.070.	Effective Date.	§ 1.16.050. Reference to State Law.
§ 1.01.080.	Editing of Code.	§ 1.16.060. Culpability, Not Exclusive, Remedies Cumulative.
	Chapter 1.04 GENERAL PROVISIONS	§ 1.16.065. Liability.
§ 1.04.010.	Definitions.	§ 1.16.070. Effect of this chapter.
	Chapter 1.12 INITIATIVE AND REFERENDUM	§ 1.16.080. Severability.
§ 1.12.010.	Adoption of State Law.	§ 1.16.090. Reports of Infractions.
§ 1.12.020.	Appeal of One Subject Determination.	§ 1.16.100. Assessment by Code Enforcement Officer.
§ 1.12.030.	Procedure for Elector Dissatisfied With Ballot Title for City Measure.	§ 1.16.105. Administrative Rules.
§ 1.12.040.	Filing Deadline for Initiative Petitions.	§ 1.16.110. Warrants—Right of Entry.
§ 1.12.050.	Authorization to Submit Explanatory Statements Relating to Municipal Legislation Referred or Initiated by Petition.	§ 1.16.111. Warrants—Grounds for Issuance.
§ 1.12.060.	Chief Petitioners for Initiative, Referendum, or Recall Petitions to be Electors of the City of Tigard.	§ 1.16.112. Warrants—Procedure for Issuance.
	Chapter 1.04 GENERAL PROVISIONS	§ 1.16.113. Warrants—Execution.
	Chapter 1.12 INITIATIVE AND REFERENDUM	§ 1.16.114. Warrants—Disposal of Seized Property.
	Chapter 1.16 CIVIL INFRACTIONS	§ 1.16.115. Voluntary Compliance Agreement.
	Chapter 1.16 CIVIL INFRACTIONS	§ 1.16.120. Notice—Notice of Violation and Letter of Complaint.
	Chapter 1.16 CIVIL INFRACTIONS	§ 1.16.140. Time to Abate Infraction After Notice.
	Chapter 1.16 CIVIL INFRACTIONS	§ 1.16.150. Immediate Abatement Action Required When.
		Article II
		Judicial Enforcement
		§ 1.16.160. Notice—Methods of Service.

TIGARD CODE

§ 1.16.170.	Notice—Computation of Time Period.	§ 1.16.430.	Abatement by the City.
§ 1.16.180.	Notice—Information.	§ 1.16.440.	Judicial Review.
§ 1.16.190.	Failure to Respond to Notice.		Article IV Penalties, Fees and Costs
§ 1.16.210.	Civil Infraction Summons and Complaint—Timing.	§ 1.16.600.	Continuous Infractions.
§ 1.16.220.	Civil Infraction Summons and Complaint—Process Requirements.	§ 1.16.610.	Failure to Comply With Judgment Order, Order to Abate or Notice of Assessment.
§ 1.16.230.	Civil Infraction Summons and Complaint—Service—Failure to Receive— Default.	§ 1.16.620.	Penalties, Fees and Costs—Payment Due When.
§ 1.16.240.	Civil Infraction Summons and Complaint—Respondent's Response Required.	§ 1.16.630.	Penalties and Fees—Classifications.
§ 1.16.250.	No Right to Jury.	§ 1.16.640.	Penalties and Fees—Amounts to be Assessed.
§ 1.16.260.	Representation by Counsel.	§ 1.16.650.	Penalties and Fees—Repeat Violations.
§ 1.16.270.	Opportunity to be Heard—Cross-Examination.	§ 1.16.660.	Penalties and Fees—Prior to First Appearance in Court.
§ 1.16.280.	Witnesses.	§ 1.16.670.	Delinquent Penalties, Fees and Costs.
§ 1.16.290.	Hearing—Admissible Evidence.	§ 1.16.680.	Penalties, Fees and Costs—Assessment.
§ 1.16.295.	Burden of Proof.	§ 1.16.690.	Administrative Fees and Costs—Notice of Assessment.
§ 1.16.300.	Hearing—Decision by Hearings Officer.	§ 1.16.700.	Administrative Fees and Costs—Notice of Objection and Hearing.
§ 1.16.310.	Order to Abate—Judicial.	§ 1.16.710.	Penalties, Fees and Costs—Collection, Lien Filing and Docketing.
§ 1.16.320.	Hearing—Records.		
§ 1.16.330.	Finality of Decision—Appeals.		
§ 1.16.340.	Remedial Action by the City—Summary Abatement.		
§ 1.16.350.	Default Judgment.		

Article III
Administrative Enforcement

§ 1.16.400.	Order to Abate—Administrative.
§ 1.16.410.	Abatement by the Responsible Party.
§ 1.16.420.	Order to Abate—Administrative—Appeal Process.

Chapter 1.17
APPEALS TO CIVIL INFRACTIONS
HEARING OFFICER

§ 1.17.100.	Definitions.
§ 1.17.110.	Jurisdiction of the Civil Infraction Hearings Officer.
§ 1.17.120.	Initiation of Appeal.
§ 1.17.130.	Hearings and Hearings Procedures.

GENERAL PROVISIONS

§ 1.17.140.	Nature of Decision.	§ 1.22.020.	Definitions.
		§ 1.22.030.	City Council to Make Determination.
	Chapter 1.21		Basis of Determination.
	PROCESSING CLAIMS FOR COMPENSATION PURSUANT TO ORS 195.300 – 195.336	§ 1.22.040.	Application Procedure.
		§ 1.22.050.	Contents of Application.
		§ 1.22.060.	Application Fee.
		§ 1.22.070.	Criteria to Determine Vested Right.
§ 1.21.010.	Purpose.	§ 1.22.080.	Burden of Proof.
§ 1.21.020.	Definitions.		Intent.
§ 1.21.030.	Claim for Compensation.	§ 1.22.090.	Notice of Vested Rights Hearing.
§ 1.21.040.	Director's Decision and Recommendation.	§ 1.22.100.	Conduct of the Hearing.
§ 1.21.050.	Processing Fee.	§ 1.22.120.	The Decision Process.
§ 1.21.060.	Burden of Proof.	§ 1.22.130.	Notice of Decision.
§ 1.21.070.	Judicial Review.	§ 1.22.140.	Final Decision.
		§ 1.22.150.	Review of Decision.
	Chapter 1.22		
	PROCESSING REQUESTS FOR VESTED RIGHTS DETERMINATION FOR PREVIOUSLY FILED MEASURE 37 CLAIMS	§ 1.22.160.	
		§ 1.22.170.	

§ 1.22.010. **Purpose.**

CHAPTER 1.01 CODE

§ 1.01.010. Title.

The Tigard Municipal Code is adopted as the official city code of the City of Tigard. The code shall be cited as the "Tigard Municipal Code," published under general authority of the City Council and maintained as provided in this chapter by the City Recorder.

(Ord. 72-61 §1; Ord. 01-19 §1)

§ 1.01.020. Designations and References.

In any prosecution for the violation of any provisions of the Tigard Municipal Code, or in any legal proceeding within the purview thereof, it shall be sufficient to refer to the applicable title, chapter, section or subsection of the Tigard Municipal Code, and all such references shall apply to the applicable numbered title, chapter, section or subsection as it appears in the Tigard Municipal Code.

Any ordinance adding to, amending, correcting or repealing all or any portion of a section of the code shall refer to and designate the applicable title, chapter, section or subsection of the Tigard Municipal Code, and whenever reference is made to any portion of the code, the reference shall apply and be applicable to amendments, corrections or additions heretofore or hereafter enacted by the City of Tigard.

(Ord. 72-61 §2)

§ 1.01.030. Title, Chapter and Section Headings.

Title, chapter and section headings contained herein shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any title, chapter or section hereof.

(Ord. 72-61 §3)

§ 1.01.040. Reference to Specific Ordinances.

The provisions of this code shall not in any manner affect matters of record which refer to, or are otherwise connected with ordinances which are therein specifically designated by number or otherwise and which are included within the code, but such reference shall be construed to apply to the corresponding provisions contained within this code.

(Ord. 72-61 §4)

§ 1.01.050. Effect on Past Actions and Obligations.

Neither the adoption of this code nor the repeal or amendments hereby of any ordinance or part or portion of any city ordinance shall in any manner affect the prosecution for violations of ordinances, which violations were committed prior to November 8, 1972, nor be construed as a waiver of any license, fee or penalty at November 8, 1972, due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, on the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining shall continue in full force and effect.

(Ord. 72-61 §5)

§ 1.01.060. Constitutionality.

If any section, subsection, sentence, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code. The council declares that it would have passed this code, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional.

(Ord. 72-61 §6; Ord. 01-19 §3)

§ 1.01.070. Effective Date.

The ordinance codified in this chapter, and the Tigard Municipal Code of 1972, hereby adopted, shall be and shall become effective on and after the 31st day of the adoption of the ordinance codified in this chapter by the council and approval by the mayor.

(Ord. 72-61 §7)

§ 1.01.080. Editing of Code.

In preparing the codified editions of ordinances for publication and distribution the City Recorder shall not alter the sense, meaning, effect or substance of any ordinance, but, with such limitations, may renumber sections and parts of sections of the ordinances, change the wording of headings, rearrange sections, change reference numbers to agree with renumbered chapters, sections or other parts, substitute the proper subsection, section or chapter or other division numbers, strike out figures or words that are merely repetitious, change capitalization for the purpose of uniformity, and correct manifest clerical or typographical errors. Ordinances codified after December 31, 2010, shall be composed under the guidelines established by the Associated Press (AP) Stylebook for grammar and punctuation insofar as the application of the AP Stylebook guidelines do not alter the sense, meaning, effect or substance of any ordinance.

(Ord. 01-19 §2; Ord. 11-05 §1)

**CHAPTER 1.04
GENERAL PROVISIONS**

§ 1.04.010. Definitions.

The following definitions apply to all provisions of this code:

"City Engineer" means the person designated by the City Manager to fulfill the responsibilities of City Engineer established by this code or by state statute. The City Manager may designate different persons to fulfill different responsibilities, and those responsibilities may be further delegated.

(Ord. 06-06)

CHAPTER 1.12 INITIATIVE AND REFERENDUM

Note: Chapter 1.12 repealed and replaced by Ord. 95-09.

§ 1.12.010. Adoption of State Law.

Except as provided in this chapter, the general laws of the state concerning initiative and referendum shall apply for any initiative or referendum of a city measure.

(Ord. 95-09)

§ 1.12.020. Appeal of One Subject Determination.

Any elector dissatisfied with a determination of the City Elections Officer under ORS 250.270(1) may petition the City Council seeking to overturn the determination of the City Elections Officer. If the elector is dissatisfied with a determination that the initiative measure meets the requirements of section 1 (2)(d), Article IV of the Oregon Constitution, the petition must be filed with the City Elections Officer not later than the seventh business day after the ballot title is filed with the City Elections Officer. If the elector is dissatisfied with a determination that the initiative measure does not meet the requirements of Section 1 (2)(d), Article IV of the Oregon Constitution, the petition must be filed with the City Elections Officer not later than the seventh business day after the written determination is made by the City Elections Officer. The review by the City Council shall be the first and final review, and shall be conducted expeditiously to insure the orderly and timely circulation of the petition.

(Ord. 95-09)

§ 1.12.030. Procedure for Elector Dissatisfied With Ballot Title for City Measure.

Any elector dissatisfied with a ballot title filed with the City Elections Officer by the City Attorney or the City governing body, may petition the City Council seeking a different title and stating the reasons the title filed is insufficient, not concise or unfair. The petition shall be filed with the City Elections Officer not later than the seventh business day after the title is filed with the City Elections Officer. The City Council shall review the title and measure to be initiated or referred, hear arguments, if any, and certify to the City Elections Officer a title for the measure which meets the requirements of ORS 250.035 and 250.039. The review by the City Council shall be the first and final review, and shall be conducted expeditiously to insure the orderly and timely circulation of the petition or conduct of the election at which the measure is to be submitted to the electors.

(Ord. 95-09)

§ 1.12.040. Filing Deadline for Initiative Petitions.

- (1) No later than the 90th day after the prospective petition for an initiative for a city measure is filed with the City Recorder, the initiative petition shall be deposited with the City Recorder for signature verification. Within ten days after a duly prepared petition is deposited with the City Recorder, the City Recorder shall verify the number and genuineness of the signatures and the voting qualifications of the persons signing the petition by reference to the registration information in the office of the Washington County Clerk. If the City Recorder determines that there are an insufficient number of signatures,

the petition shall be returned to the sponsor or person offering the petition for filing. The petition may be refiled at any time within 90 days of the filing of the prospective petition.

- (2) No initiative petition shall be accepted for filing unless:
- (a) It contains 100 percent of the required number of signatures;
 - (b) All signatures were obtained within 90 days after the date the prospective petition was filed;
 - (c) As circulated, it complies with the requirements of state statutes; and
 - (d) The initiative is for a legislative measure within the authority of the City.

(Ord. 01-19 §4)

§ 1.12.050. Authorization to Submit Explanatory Statements Relating to Municipal Legislation Referred or Initiated by Petition.

When directed by the Tigard City Council, the City Manager, City Attorney or City Recorder is authorized to prepare explanatory statement(s) for the Washington County Voters' Pamphlet for matters relating to municipal legislation referred or initiated by petition.

(Ord. 06-17)

§ 1.12.060. Chief Petitioners for Initiative, Referendum, or Recall Petitions to be Electors of the City of Tigard.

No petition for initiative, referendum, or recall filed with the city shall be valid unless all chief petitioners are electors of the city at the time of filing and remain electors of the city through the entire, initiative, referendum, or recall process, including the election.

(Ord. 07-16)

**CHAPTER 1.16
CIVIL INFRACTIONS**

Note: Prior ordinance history: Ord. No. 86-20 as amended by Ord. Nos. 86-35, 86-41, 99-01, 02-27 and 07-03.

Article I General Provisions

§ 1.16.010. Title for Provisions.

The ordinance codified in this chapter shall be known as the "civil infractions ordinance," and may also be referred to herein as "this chapter."

(Ord. 12-01 §1)

§ 1.16.020. Establishment and Purpose.

- A. The purpose of this chapter is to establish civil procedures for the enforcement of certain provisions of the Tigard Municipal Code (TMC).
- B. The procedures for the judicial enforcement process and the administrative enforcement process established herein are for the purpose of:
 1. Decriminalizing penalties for infractions of certain civil ordinances; and
 2. Providing a convenient and practical forum for the hearing and determination of cases arising out of such infractions.

The civil infractions procedures are intended to be used for all violations of the TMC other than certain violations of Title 7 and Title 10.

- C. The civil infractions abatement procedures established herein are for the purpose of authorizing the city to proceed to abate such infractions:
 1. If it is determined that the infraction presents an immediate danger to the public health, safety or welfare; or
 2. If it is determined that the property owner or responsible person is incapable of abating, or unwilling to abate, the infraction within a timeline satisfactory to the city.

(Ord. 12-01 §1)

§ 1.16.030. Definitions.

For the purposes of this chapter, the following definitions shall apply:

"Abate" means to restore a property to its condition prior to the infraction, or similar condition that is free of the subject infractions. In the case of graffiti, "abate" means to remove graffiti from the public view.

"City manager" means the city manager or any other city employee designated by the city manager.

"Civil infraction" or "infraction" means:

1. The failure to comply with a provision of this code other than certain provisions of Title 7 and Title 10; and
2. The process of imposing a civil penalty under this chapter.

References to "uniform infraction" throughout the code other than in certain provisions of Title 7 and Title 10 shall be deemed to be references to "civil infraction."

"Civil infractions hearings officer" means the municipal judge or the individual appointed by the municipal judge with the delegated authority to preside over the code enforcement hearings and to perform the related functions as specified by this chapter.

"Code enforcement officer" means the individual or individuals appointed or designated by the director of community development or the city manager to enforce the provisions of this chapter. For enforcement of Chapters 10.16 through 10.32, Section 6.02.060 and Chapter 7.60, "code enforcement officer" also includes community service officers of the police department.

"Costs" means any expenses incurred and charges associated with any action taken by the city under this chapter including but not limited to the cost to the public of the staff time invested and, regarding items confiscated for violation of Sections 6.03.010 and 6.03.020, all expenses incurred and charges associated with the removal, storage, detention, processing, disposition and maintenance thereof.

"Finance officer" means the senior financial officer of the city or the designee of the senior financial officer.

"Letter of complaint" means a letter of notification to a responsible party that the city has received a complaint indicating that a violation may exist on the party's property.

"Notice of assessment" means a formal letter or form notifying a respondent or recipient that an administrative fee, administrative costs or costs of abatement have been assessed against them or against property in which they hold an interest.

"Notice of violation" means a formal letter or form notifying a responsible party that the city has probable cause to believe that a violation has been found to exist on the party's property.

"Order to abate" means an order to a respondent or responsible party to abate an infraction from the municipal court as provided in Article II, or from the code enforcement officer as provided in Article III.

"Person" means an individual human being and may also refer to a firm, corporation, unincorporated association, partnership, limited liability company, trust, estate or any other legal entity.

"Premises" means a parcel of land and any improvements on it.

"Recipient" means a person who has received a letter of complaint under the administrative process.

"Respondent" means a person charged with a civil infraction. A respondent will have received a notice of violation or a summons and complaint as provided in Article II or an order to abate as provided in Article III.

"Responsible party" means any one of the following:

1. An owner;
2. An entity or person acting as an agent for an owner by agreement that has authority over the property, is responsible for the property's maintenance or management, or is responsible for curing or abating an infraction;
3. Any person occupying the property, including bailee, lessee, tenant or other having

possession; or

4. The person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed the object or allowed the object to exist on the property.

There may be more than one responsible party for a particular property or infraction.

"Violation" means failure to comply with a requirement imposed directly or indirectly by this code. "Violation" may also mean civil infraction, except as used in those portions of Title 7 and of Title 10 that do not use the civil infraction procedure.

"Voluntary compliance agreement" means an agreement, whether written or verbal, between the city and the recipient or respondent, which is intended to resolve the alleged civil infraction.
(Ord. 12-01 §1)

§ 1.16.040. Use of Language.

As used in this chapter, pronouns indicating the masculine gender shall include the feminine and neuter genders; the singular shall include the plural; and "person" shall, where appropriate, include any partnership, corporation, unincorporated association, the State of Oregon or other entity.

(Ord. 12-01 §1)

§ 1.16.050. Reference to State Law.

Any reference to an Oregon state statute incorporates into this chapter by reference the statute in effect on the effective date of the ordinance codified in this chapter.

(Ord. 12-01 §1)

§ 1.16.060. Culpability, Not Exclusive, Remedies Cumulative.

- A. Acts or omissions to act which are designated as an infraction by any city ordinance do not require a culpable mental state as an element of the infraction.
- B. The procedures prescribed by this chapter shall be the exclusive procedures for imposing civil penalties; however, this section shall not be read to prohibit in any way alternative remedies set out in the Tigard Municipal Code which are intended to abate or alleviate code infractions, nor shall the city be prevented from recovering, in any manner prescribed by law, any costs incurred by it in abating or removing ordinance infractions pursuant to any code provision.
- C. The remedies and procedures for abatement of civil infractions provided in this chapter are in addition to all other remedies and procedures provided by law. Nothing in this chapter shall limit or restrict in any way the city's right to obtain abatement by means of a civil infraction, judicial action, an administrative enforcement action, a criminal action, a civil lawsuit or any other form of procedure to obtain abatement.

(Ord. 12-01 §1)

§ 1.16.065. Liability.

- A. The city shall not be liable to any person for any loss or injury to person or property growing out of any casualty or incident happening to such person or property on account of a property owner, lessee or occupant of property who fails or neglects to promptly

comply with the duties imposed by this section.

- B. The city shall be exempt from all liability, including but not limited to common-law liability that it might otherwise incur to an injured party as a result of the city's negligent failure to abate an infraction.
- C. If any property owner, lessee or occupant, by his or her failure or neglect to perform any duty required of him or her by the terms of this section, contributes in causing injury or damages, they shall reimburse the city for all damages or injury it has sustained or has been compelled to pay in such case, including but not limited to reasonable attorney fees for the defense of the same, and such payments as may be enforced in any court having jurisdiction.

(Ord. 12-01 §1)

§ 1.16.070. Effect of this chapter.

- A. Citations or complaints issued and filed with the municipal court prior to the effective date of the ordinance codified in this chapter shall be processed in accordance with the provisions in effect at the time the complaint was issued.
- B. Nothing in this chapter shall be construed as a waiver of any prior assessment, bail or fine ordered by the municipal court.

(Ord. 12-01 §1)

§ 1.16.080. Severability.

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

(Ord. 12-01 §1)

§ 1.16.090. Reports of Infractions.

All reports or complaints of infractions covered by this chapter shall be made or referred to an authorized code enforcement officer.

(Ord. 12-01 §1)

§ 1.16.100. Assessment by Code Enforcement Officer.

- A. Upon receiving a report or complaint or otherwise becoming aware of a violation of this code, the code enforcement officer shall review the facts and circumstances surrounding the alleged infraction and if he or she deems it appropriate will proceed with appropriate enforcement actions.
- B. The code enforcement officer shall not proceed further with the matter if the officer determines that there is not sufficient evidence to support the allegation, or if the officer determines that it is not in the best interest of the city to proceed.

(Ord. 12-01 §1)

§ 1.16.105. Administrative Rules.

The city manager is authorized to draft and adopt administrative rules to define procedures

to work with respondents or recipients toward the abatement of civil infractions. Any such administrative rules and regulations shall be adopted pursuant to the provisions of Chapter 2.04, be consistent with this chapter, and shall include the following:

- A. Specific form documents or templates for all written communications referenced in this chapter to ensure that communications from the city are uniform, including a:
 - 1. Letter of complaint;
 - 2. Notice of violation;
 - 3. Order to abate;
 - 4. Notice of assessment.
- B. Procedures for the preparation, execution, delivery, and posting of notices of a:
 - 1. Letter of complaint;
 - 2. Notice of violation;
 - 3. Order to abate;
 - 4. Notice of assessment.
- C. Procedures for review by the civil infractions hearing officer to consider protest by a responsible party of an administrative order to abate consistent with Section 1.16.420.
- D. Procedures for determination of the time allowed to abate an infraction or otherwise respond as provided in a:
 - 1. Letter of complaint;
 - 2. Notice of violation;
 - 3. Order to abate.
- E. Procedures for the calculation of administrative fees.
- F. Standards for confidential or anonymous reporting and circumstances in which such reporting is allowed.

(Ord. 12-01 §1)

§ 1.16.110. Warrants—Right of Entry.

- A. The city manager or designee may enter property, including the interior of structures, at all reasonable times whenever an inspection is necessary to enforce any regulations of this code, or whenever the city manager or designee has reasonable cause to believe that there exists in any structure or upon any property any condition which constitutes a violation of provisions of this code.
- B. In the case of entry into areas of property that are plainly enclosed to create privacy and prevent access by unauthorized persons, the following steps shall be taken.
 - 1. The code enforcement officer shall first make a reasonable attempt to locate the owner

or other persons having charge or control of the property, present proper credentials and request entry.

2. If entry is refused or if the owner or other persons having charge or control of the property cannot be located, the code enforcement officer may attempt to obtain entry by obtaining a warrant.

(Ord. 12-01 §1)

§ 1.16.111. Warrants—Grounds for Issuance.

- A. A warrant for inspection, investigation, removal or abatement purposes shall only be issued upon cause, supported by affidavit, particularly describing:
 1. The applicant's status in applying for the warrant;
 2. The statute, ordinance or regulation requiring or authorizing the inspection or investigation or the removal and abatement of the violation;
 3. The building or property to be inspected, investigated or entered;
 4. The purpose for which the inspection, investigation, removal or abatement is to be made;
 5. The basis upon which cause exists to inspect, investigate, remove or abate the violation; and
 6. In the case of removal or abatement, a statement of the general types and estimated quantity of the items to be removed or conditions abated.

- B. Cause shall be deemed to exist if:

1. Reasonable legislative or administrative standards for conducting a routine, periodic, or area inspection or for removing and abating violations are satisfied with respect to any building or upon any property; or
2. An investigation is reasonably believed to be necessary in order to discover or verify the condition of the property for conformity with regulations; or
3. There is cause to believe that a violation exists for which removal or abatement is required or authorized by this chapter.

(Ord. 12-01 §1)

§ 1.16.112. Warrants—Procedure for Issuance.

- A. Before issuing a warrant, a judge may examine the applicant and any other witness under oath and shall be satisfied of the existence of grounds for granting such application.
- B. If the judge is satisfied that cause for the inspection, investigation, removal or abatement of any infraction exists and that other requirements for granting the application are satisfied, the judge shall issue the warrant, particularly describing:
 1. The person or persons authorized to execute the warrant;
 2. The property to be entered; and

3. The purpose of the inspection or investigation or a statement of the general types and estimated quantity of the items to be removed or conditions abated.
- C. The warrant shall contain a direction that it be executed on any day of the week between the hours of eight a.m. and six p.m., or where the judge has specifically determined, upon a showing that it cannot be effectively executed between those hours, that it be executed at any additional or other time of the day or night.
- D. In issuing a warrant, the judge may authorize any peace officer, as defined in Oregon Revised Statutes, to enter the described property to remove any person or obstacle and to assist the representative of the city in any way necessary to enter the property and complete the investigation or remove and abate the infraction.

(Ord. 12-01 §1)

§ 1.16.113. Warrants—Execution.

- A. In executing a warrant on occupied property the person authorized to execute the warrant shall, before entry into the occupied premises, make a reasonable effort to present the person's credentials, authority and purpose to an occupant or person in possession of the property designated in the warrant and show the occupant or person in possession of the property the warrant or a copy thereof upon request.
- B. In executing a warrant on unoccupied property, the person authorized to execute the warrant need not inform anyone of the person's authority and purpose, as prescribed in subsection A above, but may promptly enter the designated property if it is at the time unoccupied or not in the possession of any person or at the time reasonably believed to be in such condition. In such case a copy of the warrant shall be conspicuously posted on the property.
- C. A warrant must be executed within 10 working days of its issue and returned to the judge by whom it was issued within 10 working days from its date of execution. After the expiration of the time prescribed by this subsection, the warrant unless executed is void.

(Ord. 12-01 §1)

§ 1.16.114. Warrants—Disposal of Seized Property.

The city manager or designee may cause any items removed pursuant to an abatement warrant to be disposed of in an approved manner whenever the city manager or designee, in his or her sole discretion, finds that the fair and reasonable value of the items at resale would be less than the cost of storing and selling the items. In making the above determination, the city manager or designee may include in the costs of sale the reasonable cost of removing the items to a place of storage, of storing the items for resale, of holding the resale including reasonable staff allowances and all other reasonable and necessary costs of holding the sale.

(Ord. 12-01 §1)

§ 1.16.115. Voluntary Compliance Agreement.

- A. The code enforcement officer may, at any time prior to a first appearance in court, enter into a voluntary compliance agreement with a respondent or recipient. The agreement shall include the time allowed to abate the infraction and shall be binding on the respondent or recipient.

- B. The fact that a person alleged to have committed a civil infraction enters into a voluntary compliance agreement shall not be considered an admission of having committed the infraction for any purpose.
- C. The city shall suspend further processing of the alleged infraction during the time allowed in the voluntary compliance agreement for completion of the necessary corrective action. The city shall take no further action concerning the alleged violation if all terms of the voluntary compliance agreement are satisfied, other than steps necessary to terminate the enforcement action.
- D. Failure to comply with any term of a signed voluntary compliance agreement constitutes an additional and separate infraction which shall be handled in accordance with procedures established by this chapter. After the voluntary compliance agreement has been signed no further notice need be given before a civil infraction summons and complaint based on this infraction is issued. The city may also proceed on the alleged infraction that gave rise to the voluntary compliance agreement.

(Ord. 12-01 §1)

§ 1.16.120. Notice—Notice of Violation and Letter of Complaint.

- A. Upon receiving a report or complaint or otherwise becoming aware of a violation of this code, the code enforcement officer may cause a notice of the alleged civil infraction to be given to any responsible party for the property containing the alleged infraction.
- B. Under the judicial enforcement process set forth in Article II, a notice of violation for the alleged civil infraction may be given to the responsible party before a civil infraction summons and complaint is issued for an infraction. Verification of the violation is a requirement for a notice of violation. A notice of violation is not required before a summons and complaint is issued. The use of a notice of violation is at the sole discretion of the code enforcement officer.
- C. Under the administrative enforcement process set forth in Article III, a letter of complaint may be mailed to any responsible party for the property containing the alleged civil infraction. Verification of the violation is not a requirement for issuing a letter of complaint but the issuance of a letter of complaint is a required first step in the administrative process.

(Ord. 12-01 §1)

§ 1.16.140. Time to Abate Infraction After Notice.

- A. If a notice of violation or a letter of complaint is given to a recipient or respondent pursuant to this chapter, the code enforcement officer shall give the recipient or respondent a specific timeline within which to cure or to abate the alleged infraction consistent with subsection B of this section.
- B. The time allowed shall not be less than 24 hours for a notice of violation, or five days for a letter of complaint, nor more than 30 days except in cases where compliance is voluntary and the code enforcement officer deems it appropriate to enter into a voluntary compliance agreement with the recipient or respondent.
- C. The code enforcement officer may grant additional time to the respondent if, in the officer's judgment, compliance within the 30-day timeline would constitute a significant hardship to the recipient or respondent or other significant mitigating circumstances exist.

(Ord. 12-01 §1)

§ 1.16.150. Immediate Abatement Action Required When.

- A. Notwithstanding the abatement time periods contained in Section 1.16.140, if the code enforcement officer determines that the alleged infraction presents an immediate danger to the public health, safety or welfare, or that any continuance of the violation would allow the recipient or respondent to profit from the violation or would otherwise be offensive to the public at large, the officer may require immediate remedial action.
- B. If, in such cases, the code enforcement officer is unable to serve a notice of violation or letter of complaint on the recipient or respondent or, if after such service the recipient or respondent refuses or is unable to remedy the infraction, the city may proceed to remedy the infraction as provided in subsection C of this section.
- C. In the case of an immediate danger to the public health, safety or welfare determined under subsection A of this section, the city may abate the infraction and charge the abatement cost back to the recipient or respondent, after obtaining a warrant to enter the property and abate the infraction. If the immediate danger constitutes an emergency threatening immediate death or physical injury to persons, the city may abate the infraction without obtaining a warrant if the delay associated with obtaining the warrant would result in increased risk of death or injury, and may charge the abatement costs back to the recipient or respondent.

(Ord. 12-01 §1)

Article II Judicial Enforcement

§ 1.16.160. Notice—Methods of Service.

If a notice of violation is given to a respondent pursuant to this chapter, service of such notice may be given as follows:

- A. To the respondent in person by the code enforcement officer.
- B. By a telephone call to the respondent. If notice is given in this manner, the respondent may be given, at the code enforcement officer's discretion, a notice of violation by first class mail sent to his or her last known address as soon as possible after the initial notice by telephone.
- C. By mailing to the respondent at his or her last known address.
- D. By affixing to the main door of the property or premises. If notice is given in this manner, the code enforcement officer may, at his or her discretion, also provide the respondent with a notice of violation by mail sent to the respondent's last known address as soon as possible after the initial notice by posting.

(Ord. 12-01 §1)

§ 1.16.170. Notice—Computation of Time Period.

- A. When the notice of violation is delivered in person or by telephone, the time period to abate the infraction shall begin immediately upon such delivery.
- B. When the notice of violation is mailed to the respondent, notice to abate the infraction shall be considered complete three days after such mailing, if the address to which it is mailed is within the state, and seven days after mailing if the address to which it is mailed is outside the state.
- C. When the notice of violation is affixed to the main door of the property or premises, for purposes of computing the time period to abate the infraction, notice shall be considered complete three days after such affixation.

(Ord. 12-01 §1)

§ 1.16.180. Notice—Information.

- A. The following information shall be included in the notice of violation if one is given:
 1. A description or identification of the activity or condition constituting the alleged infraction, and the identification of the recipient as the respondent.
 2. A statement that the code enforcement officer has determined the activity or condition to be an infraction.
 3. A statement of the action required to abate the alleged infraction and the time and date by which abatement must be completed unless a voluntary compliance agreement is executed.
 4. A statement advising the respondent that if the required abatement is not completed

within the time specified and the respondent has not entered into a voluntary compliance agreement, a civil infraction summons and complaint will be issued and civil penalties for the particular infraction may be imposed.

- B. The code enforcement officer has the discretion to include in the notice of violation an invitation to contact the code enforcement officer to discuss any questions the respondent may have about the alleged violation, the requirements for compliance and any possibility of entering into a voluntary compliance agreement.

(Ord. 12-01 §1)

§ 1.16.190. Failure to Respond to Notice.

If notice is given, and the respondent either receives or rejects the notice of violation and fails to abate the alleged infraction within the time specified in the notice of violation, the code enforcement officer may serve the respondent with a civil infraction summons and complaint.

(Ord. 12-01 §1)

§ 1.16.210. Civil Infraction Summons and Complaint—Timing.

A civil infraction summons and complaint may be served on the respondent:

- A. Immediately upon discovery of the infraction;
- B. Where the response period given in a notice of violation has expired; or
- C. Where the period for compliance given in a voluntary compliance agreement expired and the infraction has not been abated.

(Ord. 12-01 §1)

§ 1.16.220. Civil Infraction Summons and Complaint—Process Requirements.

- A. The physical form taken by a civil infraction summons and complaint is not material. What is material is the substance, the information contained therein. The city may utilize various physical formats for the summons and complaint. The state uniform citation may be used. Any form prepared by the city should normally contain or solicit the following information, but no complaint or summons shall be considered invalid for failure to comply with these rules, so long as the basic information regarding the infraction and the court date is included.
- B. The civil infractions summons and complaint shall contain the following information:
 1. The name and address of the respondent;
 2. A description of the infraction that can be understood by a person making a reasonable effort to do so;
 3. The date, time and place at which the infraction is alleged to have been committed. If the infraction is alleged to be ongoing, the civil infractions summons and complaint shall so state and shall list a date on which the infraction was observed;
 4. A file or reference number;
 5. The date the civil infraction summons and complaint was issued;

6. The name of the code enforcement officer issuing the citation;
7. The time, date and location at which the respondent is to appear in court;
8. A notice that a complaint based on the violation will be filed with the court;
9. The amount of the maximum civil penalty for the infraction;
10. An explanation of the respondent's obligation to appear at the hearing and that a monetary judgment may be entered for up to the maximum civil penalties if the respondent fails to make all required court appearances;
11. A space wherein the respondent may admit having committed the alleged infraction;
12. The time period for returning the form to the court;
13. A notice that, if the respondent admits having committed the infraction as charged, payment, in the amount shown on the summons and complaint or as agreed with the code enforcement officer pursuant to Section 1.16.660 of this chapter, as may be appropriate, must accompany the admission; and
14. A form of verification that the person signing the complaint swears that the person has reasonable grounds to believe, and does so believe, that the respondent committed the alleged infraction.

(Ord. 12-01 §1)

§ 1.16.230. Civil Infraction Summons and Complaint—Service—Failure to Receive—Default.

- A. Service of the civil infraction summons and complaint shall be made consistent with the requirements of the Oregon Rules of Civil Procedure and may be made by:
 1. Personal service on the respondent or an agent for the respondent;
 2. Substitute service at the respondent's dwelling or office;
 3. Affixing to the main door of the property or premises; or by
 4. Certified mail, return receipt requested, to the respondent at his or her last known address.
- B. In the event of substitute service at the respondent's dwelling, the person served must be at least 14 years of age and residing in the respondent's place of abode.
- C. Service at the respondent's office must be made during regular business hours. Substitute service at the respondent's office must be made to the person who is apparently in charge.
- D. If substitute service is used, a true copy of the summons and complaint, together with a statement of the date, time and place at which service was made, must be mailed to the respondent at the respondent's last known address. Service will be considered complete upon such a mailing.
- E. Service by any other method reasonably calculated, under all the circumstances, to apprise the respondent of the existence and pendency of the infraction and to afford a reasonable opportunity to respond shall be acceptable.

- F. Service on particular respondents, such as minors, incapacitated persons, corporations, limited partnerships, the state, other public bodies and general partnerships shall be as prescribed for the service of a civil summons and complaint by the Oregon Rules of Civil Procedure.
- G. No default shall be entered against any respondent without proof that the respondent had notice of the civil infraction summons and complaint. A sworn affidavit of the code enforcement officer outlining the method of service, including the date, time and place of service shall create a rebuttable presumption that the respondent had such notice.

(Ord. 12-01 §1)

§ 1.16.240. Civil Infraction Summons and Complaint—Respondent's Response Required.

- A. A respondent served with a civil infraction summons and complaint shall respond to the complaint by personally appearing at the scheduled first appearance in court or by making a written response by mail or personal delivery to the court.
- B. If the respondent admits the infraction, the respondent may so indicate on the summons and forward the form to the court. Payment in the amount of the civil penalty for the infraction, as shown on the summons or as agreed with the code enforcement officer pursuant to Section 1.16.660 of this chapter shall be submitted with the response. Any appropriate findings shall be entered in the records of the civil infraction hearings officer indicating the receipt of the civil penalty.
- C. If the respondent does not admit the infraction, the respondent must appear at the scheduled first appearance in court.
 - 1. At the first appearance, the respondent may deny the infraction and request a hearing, admit the infraction, or not contest the infraction.
 - 2. If the respondent either admits or does not contest the infraction the respondent shall be given the opportunity to provide a statement. Based on the statement provided by the respondent and any additional information provided by the code enforcement officer, the civil infractions hearings officer shall impose a civil penalty not to exceed the maximum civil penalty allowed for the infraction.
 - 3. If the respondent requests a hearing, a hearing shall be scheduled.

(Ord. 12-01 §1)

§ 1.16.250. No Right to Jury.

Any hearing to determine whether an infraction has been committed shall be held before the civil infraction hearings officer without a jury.

(Ord. 12-01 §1)

§ 1.16.260. Representation by Counsel.

The respondent may be represented by legal counsel; however, legal counsel shall not be provided at public expense. Written notice shall be provided to the hearings officer and code enforcement officer no later than five days prior to any appearance by legal counsel at an appearance or hearing.

(Ord. 12-01 §1)

§ 1.16.270. Opportunity to be Heard—Cross-Examination.

At a hearing a respondent shall have the right to present evidence and witnesses in the respondent's favor, to cross-examine any witnesses who testify against the respondent, and to submit rebuttal evidence.

(Ord. 12-01 §1)

§ 1.16.280. Witnesses.

- A. The respondent may request that witnesses be ordered by subpoena to appear at the hearing. The respondent shall make such request in writing to the court at least five days prior to the scheduled hearing.
- B. Subject to the same five-day limitation, the code enforcement officer, the citizen who signed the complaint or the city attorney, as appropriate, may also request in writing that the court order certain witnesses to appear by subpoena.
- C. If a civil penalty is declared in the final order, the order shall also provide that the respondent shall pay any witness fees payable in connection with the hearing.

(Ord. 12-01 §1)

§ 1.16.290. Hearing—Admissible Evidence.

- A. The hearing shall be limited to production of evidence only on the infraction alleged in the complaint.
- B. Oral evidence shall be taken only upon oath or affirmation administered by the civil infractions hearings officer.
- C. Evidence shall be admitted if it is of the type which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might render such evidence inadmissible in civil actions in courts of competent jurisdiction in this state.
- D. Irrelevant or unduly repetitious evidence shall be excluded.

(Ord. 12-01 §1)

§ 1.16.295. Burden of Proof.

The complainant or, if the city is the complainant, the code enforcement officer, shall have the burden of proving the alleged civil infraction by a preponderance of the evidence.

(Ord. 12-01 §1)

§ 1.16.300. Hearing—Decision by Hearings Officer.

- A. The hearings officer shall determine if the respondent committed the infraction as alleged in the complaint.
- B. When the infraction has not been proven, a written order dismissing the complaint shall be entered in the court records.
- C. When the hearings officer finds that the infraction was committed, written findings shall be prepared which set out sufficient information to substantiate the commission of the

infraction.

- D. Written orders, including findings, shall be prepared within 10 working days of the oral decision. The court shall serve true copies of the hearings officer's findings, order and judgment on all parties, either personally or by mail.

(Ord. 12-01 §1)

§ 1.16.310. Order to Abate—Judicial.

Upon a finding that the infraction was committed by the respondent, the hearings officer may issue an order to abate requiring the respondent to abate the ordinance infraction within a specified time period identified in the final order. Orders to abate issued under this section may only be appealed pursuant to Section 1.16.330.

(Ord. 12-01 §1)

§ 1.16.320. Hearing—Records.

The court shall maintain a record of the hearing proceedings. A mechanical recording of the hearing, accompanied by any written documents, correspondence or physical evidence associated with the matter shall be sufficient to meet the requirements of this section.

(Ord. 12-01 §1)

§ 1.16.330. Finality of Decision—Appeals.

The determination of the hearings officer shall be final. Review of the hearings officer's determination shall be to the circuit court by writ of review, pursuant to Chapter 34 of the Oregon Revised Statutes.

(Ord. 12-01 §1)

§ 1.16.340. Remedial Action by the City—Summary Abatement.

Upon finding that an infraction was committed, as determined by a final decision of the hearings officer, the city may, after obtaining a warrant to enter the property and abate the infraction, proceed to abate the infraction and charge the abatement costs back to the respondent pursuant to Section 1.16.680.C. For the purposes of this section "a final decision of the hearings officer" means a final decision for which judicial review was not sought within the time allowed by law or a decision of the hearings officer that was upheld by a final decision in the judicial review and appeal process.

(Ord. 12-01 §1)

§ 1.16.350. Default Judgment.

Subject to the limitations set forth in Section 1.16.230, a default judgment shall be entered in an amount up to the maximum civil penalty applicable to the charged infraction if the respondent fails to appear at the scheduled hearing.

(Ord. 12-01 §1)

**Article III
Administrative Enforcement**

§ 1.16.400. Order to Abate—Administrative.

- A. Upon finding any of the following, the code enforcement officer may cause an order to abate to be posted on the subject property and mailed to the owner and each other known responsible party:
 1. A violation exists; or
 2. Any responsible party is not responsive or cooperative after receiving a letter of complaint; or
 3. A recipient failed to comply with the terms of a voluntary compliance agreement.
- B. The order shall require the respondent to abate the ordinance infraction within a specified time period.
- C. Prior to mailing or posting an order to abate, the code enforcement officer must have probable cause to believe that a civil infraction exists, based on personal observation of the violation by the code enforcement officer or other credible authority.
- D. The code enforcement officer shall cause a copy of the order to abate to be posted on the premises at the site of the violation.
- E. An order to abate shall be mailed by first class or certified mail to the last known address of the responsible party. An order to abate shall contain:
 1. A description of the real property, by street address or otherwise, on which the infraction exists.
 2. The date of the order.
 3. A direction to abate the infraction within no less than 10 days and no more than 30 days from the date of the order.
 4. A description of the infraction.
 5. A statement that, unless the infraction is removed:
 - a. A warrant may be obtained;
 - b. The city may abate the infraction; and
 - c. The cost of abatement will be charged to the responsible party.
 6. A statement that failure to abate an infraction may result in imposition of an administrative fee or lien on the property.
 7. A statement that the responsible party may protest the order to abate by giving notice to the code enforcement officer within 10 days following the date of the order. Contact information for the code enforcement officer shall be included in the order to abate.

F. Upon completion of mailing and posting, the persons mailing and posting shall execute and file certificates stating the date and place of the mailing and posting, respectively.

G. An error in the address or name of the responsible party shall not make the order to abate void, and in such case the posted notice shall be sufficient.

(Ord. 12-01 §1)

§ 1.16.410. Abatement by the Responsible Party.

A. Within the timeline specified in the order to abate, the responsible party shall abate the infraction or appeal the order to abate pursuant to Section 1.16.420.

B. Any responsible party intending to abate the infraction shall provide notice to the code enforcement officer before abating the infraction and shall allow the city to inspect during and on completion of the abatement. The notification shall state how the infraction will be abated, when it will be abated, and who will be abating it.

(Ord. 12-01 §1)

§ 1.16.420. Order to Abate—Administrative—Appeal Process.

A. A responsible party protesting that the alleged infraction does not exist shall file with the code enforcement officer a written statement specifying the basis for the protest before the abatement date specified in the order or at most within 10 days of the date of the notice. Standing to protest is limited to a responsible party.

B. Upon receipt of a written statement of protest from a responsible party, the code enforcement officer shall, within 10 days of receipt of the protest, schedule a hearing before the civil infractions hearings officer, to be held within 30 days of receipt.

C. At the hearing set for consideration of the infraction, the person protesting may appear and be heard by the civil infractions hearings officer and the civil infractions hearings officer shall determine whether or not an infraction in fact exists. The city manager is authorized to draft and adopt rules and policies to provide for a civil infractions hearings officer review process consistent with this subsection and principles of due process. The civil infractions hearings officer's determination shall be required only in those cases where a written protest has been filed as provided in this section.

D. If the civil infractions hearings officer determines that an infraction does in fact exist, the responsible party shall, within five days after the civil infractions hearings officer's determination, abate the infraction, unless the civil infractions hearings officer determines that the responsible party should not be given the opportunity to abate or unless the civil infractions hearings officer decision allows a period of time greater than five days.

E. The civil infractions hearings officer may determine that the responsible party for the infraction should not be given the opportunity to abate only if the civil infractions hearings officer finds that the responsible party for the infraction is unlikely to properly abate the infraction. The determination that a responsible party is unlikely to properly abate the infraction shall be based on the findings as to one of the following:

1. Whether the person acted intentionally or whether the infraction is egregious; or
2. Whether the person had knowledge that the action was a violation of state law or city

code; or

3. Whether the person has the professional expertise to perform the abatement.
(Ord. 12-01 §1)

§ 1.16.430. Abatement by the City.

If, within the time allowed, the infraction has not been abated by the responsible party, the city manager may cause the infraction to be abated by securing an abatement warrant pursuant to Sections 1.16.110 through 1.16.114.

(Ord. 12-01 §1)

§ 1.16.440. Judicial Review.

Judicial review of a decision of the civil infractions hearings officer on the appeal of an order to abate shall be on the record by writ of review pursuant to ORS Chapter 34 and not otherwise.
(Ord. 12-01 §1)

Article IV Penalties, Fees and Costs

§ 1.16.600. Continuous Infractions.

When an infraction is of a continuous nature, unless otherwise specifically provided, a separate infraction shall be deemed to occur on each calendar day the infraction continues to exist.
(Ord. 12-01 §1)

§ 1.16.610. Failure to Comply With Judgment Order, Order to Abate or Notice of Assessment.

- A. Failure to comply with a judicial order to abate an infraction or pay a civil penalty or court costs imposed within the time allowed for abatement or payment shall constitute a Class 1 civil infraction.
 - B. Failure to comply with an administrative order to abate an infraction or to pay an administrative fee or statement of administrative or abatement costs within the time allowed for such abatement or payment in a notice of assessment shall constitute a Class 1 civil infraction.
 - C. Failure to comply with a judgment order, an order to abate or a notice of assessment is a continuous infraction and a separate infraction will be deemed to occur each calendar day the failure to comply infraction continues to exist past the time allowed in the judgment order.
- (Ord. 12-01 §1)

§ 1.16.620. Penalties, Fees and Costs—Payment Due When.

Any civil penalty, administrative fees or costs assessed shall be paid no later than 30 days after the final order or the date of notice. Such period may be extended by the code enforcement officer for the administration process or upon order of the hearings officer.

(Ord. 12-01 §1)

§ 1.16.630. Penalties and Fees—Classifications.

For the purpose of determining civil penalties and administrative fees, infractions are classified as Class 1, 2 or 3 infractions.

(Ord. 12-01 §1)

§ 1.16.640. Penalties and Fees—Amounts to be Assessed.

The civil penalty or administrative fee to be assessed for a specific infraction shall be as follows:

- A. For Class 1 infractions:
 1. An amount not to exceed \$250 per day under either the judicial or the administrative enforcement process; or
 2. Under the administrative enforcement process, an amount:
 - a. Computed in a manner established by administrative rule pursuant to Section

- 1.16.105,
- b. For the entire period the violation exists and not for each day of the violation; or
 3. For the specific urban forestry violations listed in Section 8.02.030.F, an amount remitted into the Urban Forestry Fund for tree planting and early establishment:
 - a. Not less than \$250 per unlawfully removed tree and not more than the city's cost to plant and maintain for three years an equivalent number of 1½ inch caliper trees with a combined caliper equal to the DBH of each unlawfully removed tree,
 - b. Not less than \$250 and not more than \$500 for damaging, moving or removing a tree protection fence,
 - c. Not less than \$250 and not more than \$500 for each failure to provide inspection reports by the project arborist or landscape architect.
- B. For Class 2 infractions, an amount not to exceed \$150 per day.
- C. For Class 3 infractions, an amount not to exceed \$50 per day.
- (Ord. 12-01 §1; Ord. 12-11 §1)

§ 1.16.650. Penalties and Fees—Repeat Violations.

The maximum amounts of the civil penalties and administrative fees set forth in Sections 1.16.640.A.1, 1.16.640.B and 1.16.640.C shall be doubled in the event that the respondent is found in violation of a second and similar violation within 24 months of the initial violation and quadrupled in the event of a third or subsequent repetition within 24 months of the initial violation.

(Ord. 12-01 §1)

§ 1.16.660. Penalties and Fees—Prior to First Appearance in Court.

The code enforcement officer is authorized to reduce the amount of a civil penalty that could be imposed or the amount of an administrative fee if compliance has been achieved and the amount is to be paid in full on or before the time and date of the first appearance in court or before the timeline set out in a letter of complaint or an order to abate.

(Ord. 12-01 §1)

§ 1.16.670. Delinquent Penalties, Fees and Costs.

Delinquent civil penalties, administrative fees or costs and penalties imposed by default judgment may be collected or enforced pursuant to Oregon Revised Statutes 30.310 or any other method.

(Ord. 12-01 §1)

§ 1.16.680. Penalties, Fees and Costs—Assessment.

- A. Upon a finding by the civil infractions hearings officer that an infraction was committed by the respondent, the civil infractions hearings officer may assess a civil penalty pursuant to Sections 1.16.600 through 1.16.650, plus costs.

- B. Upon a finding by the code enforcement officer that an infraction was committed by the respondent and if, within the time allowed in an order to abate, the infraction has not been abated by the responsible party, the code enforcement officer may assess an administrative fee pursuant to Sections 1.16.600 through 1.16.650, plus costs.
- C. For abatement of a violation by the city by judicial process pursuant to Section 1.16.340 or administrative process pursuant to Section 1.16.430, the code enforcement officer shall keep an accurate record of the costs incurred by the city in abating the violation. The total amount of these charges will be assessed against the responsible party as the cost of abatement.

(Ord. 12-01 §1)

§ 1.16.690. Administrative Fees and Costs—Notice of Assessment.

Upon the assessment of administrative fees or costs pursuant to Section 1.16.680, the code enforcement officer shall forward to all persons responsible for the violation a notice of assessment stating:

- A. The total administrative fees and costs, if any, assessed for the violation;
- B. That the total amount of the fees and costs as indicated will be assessed to and become a lien against the property of persons responsible for the violation unless paid within 30 days from the date of the notice;
- C. That any responsible party for the fees and costs may file a written notice of objection to the amount of the fees and costs with the code enforcement officer not more than 10 days from the date of the notice.

(Ord. 12-01 §1)

§ 1.16.700. Administrative Fees and Costs—Notice of Objection and Hearing.

If an objection to an administrative fee or costs is filed as provided in Section 1.16.690, the code enforcement officer shall, within 10 days, cause a hearing to be scheduled to be held within 30 days before the civil infractions hearings officer. The civil infractions hearing officer shall hear the objection and determine the amount of the fee and costs to be assessed including the costs to the city of responding to the objection if the city's position is sustained.

(Ord. 12-01 §1)

§ 1.16.710. Penalties, Fees and Costs—Collection, Lien Filing and Docketing.

- A. When a judgment is rendered by the hearings officer in favor of the city for the sum of \$100 or more, exclusive of costs, the code enforcement officer shall, at any time thereafter while the judgment is enforceable, file with the city finance officer a certified transcript of all those entries made in the docket of the hearings officer with respect to the action in which the judgment was entered.
- B. An assessment of the administrative fees and costs as stated in the notice of assessment shall be made if:
 - 1. No objection to administrative fees and costs is filed as provided in Section 1.16.700; or

2. Fees or costs remain applicable following a hearing on an objection and the fees and costs are not paid within 30 days from the date of the notice or the date of the hearing order.
- C. The code enforcement officer shall file with the city finance officer a certified statement of the total fees and costs due.
- D. Upon receiving the statement of total fees and costs due or the certified transcript, the city finance officer shall enter that total on the city's lien docket.
- E. The city may bring legal action to collect any civil penalties, fees, costs or interest provided for in this chapter. The city may also use a professional collection agency, or cause the full amount of civil penalties, fees, costs or interest owed to be entered into the city's lien docket and, from the time of entry on the city's lien docket it shall constitute a lien upon property of all persons responsible for the violation.
- F. A lien shall bear interest at the rate of nine percent per year. Such interest shall commence to run from date of the entry of the lien in the lien docket.
- G. An error in the name of any person to whom notice is sent shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against property of the responsible party for the violation.
- H. The finance officer shall file the statement of total fees and costs due or the transcript of the court judgment with the Washington County Clerk for entry in the judgment docket of the circuit court. All costs associated with the filing of the transcript shall be added to the amount of the statement.

(Ord. 12-01 §1)

**CHAPTER 1.17
APPEALS TO CIVIL INFRACTIONS HEARING OFFICER**

§ 1.17.100. Definitions.

For purposes of this chapter:

- A. City department means and includes any Bureau, Division, Board, Commission, Committee, agent, officer, or employee of the City of Tigard.
- B. Decision or Determination means and includes any decision, determination, order or other action of any City department.

(Ord. 96-16)

§ 1.17.110. Jurisdiction of the Civil Infraction Hearings Officer.

- A. Whenever, pursuant to any portion of the Tigard Municipal Code, a person has the right to appeal to the Civil Infractions Hearings Officer from any decision or determination of a City Department, such appeal shall be in accordance with the procedures and under the conditions set forth in this chapter.
- B. No person shall have a right of appeal to the Civil Infractions Hearings Officer unless the right of appeal is expressly provided for in this Code.

(Ord. 96-16)

§ 1.17.120. Initiation of Appeal.

- A. Unless otherwise specified in this Code, a request for an appeal shall be filed within five days, excluding holidays and weekends, after the date of the date of the decision appealed from.
- B. Except when the Code provides differently, the Notice of Appeal shall be in writing and shall:
 1. Contain either a copy or a complete and full description of the decision or determination appealed from;
 2. A statement of the grounds upon which it is contended the decision or determination is invalid, unauthorized or otherwise improper;
 3. The name of the person appealing the decision or determination along with their address and a telephone number;
 4. Such other information that is deemed appropriate by rule of the Code Infractions Hearings Officer or as may otherwise be specified elsewhere in this Code.

(Ord. 96-16)

§ 1.17.130. Hearings and Hearings Procedures.

- A. Upon receipt of a Notice of Appeal, the Civil Infractions Hearings Officer shall schedule and hold an appeal hearing within 30 days of the receipt of the Notice. Notice of the time, date and place of the hearing on the appeal shall be sent by first class mail to the address provided on the Notice of Appeal. The time for the Hearing may be extended by motion of

the Appellant or the City or in the sound discretion of the Civil Infractions Officer.

- B. Hearings shall be conducted in accordance with the procedures set forth in Sections 1.16.250 to 1.16.300; 1.16.320 and 1.16.330 of this Code.
- C. With the written consent of the Appellant and the City, the Civil Infractions Hearings Officer may determine the matter without a hearing and solely upon the record before him or her.
- D. The Civil Infractions Officer may sustain, modify, reverse, or annul the decision or determination appealed from. The Civil Infractions Hearings Officer may also remand the decision or determination back to the City department for such reconsideration or further action as the Civil Infractions Hearings Officer deems necessary.

(Ord. 96-16)

§ 1.17.140. Nature of Decision.

The determination of the Civil Infractions Hearings Officer is a quasi-judicial decision and is not appealable to the City Council; any appeal from the decision of the Civil Infractions Hearings Officer shall be by writ of review to the Circuit Court of Washington County, Oregon as provided for in ORS 34.010 to ORS 34.100.

(Ord. 96-16)

**CHAPTER 1.21
PROCESSING CLAIMS FOR COMPENSATION PURSUANT TO ORS 195.300 –
195.336**

§ 1.21.010. Purpose.

The purpose of this chapter is to implement the provisions of ORS 195.300-195.336, (Ballot Measure 49) enacted by the voters on November 6, 2007. These provisions are intended to establish a prompt, open, thorough and consistent process that provides Claimants an adequate and fair opportunity to present their Claims for compensation to the city.

§ 1.21.020. Definitions.

The definitions set forth in ORS 195.300, are by this reference, incorporated herein. As used in this process, the following words and phrases mean:

"Ballot Measure 49" means the measure enacted by the voters at the November, 2007, general election and codified at ORS 195.300-195.336.

"City Council" means the City Council of the City of Tigard.

"Claimant" means the person or persons who have filed a Claim or demand for compensation pursuant to ORS 195.312(7) and (8).

"Department" means the Community Development Department of the City of Tigard.

"Director" means the Community Development Director for the City of Tigard.

"Person" includes a public or private entity.

§ 1.21.030. Claim for Compensation.

A person seeking to file a Claim for compensation shall do so by delivery of said claim to the Department. The minimum requirements for making a Claim are specified in ORS 195.310.

§ 1.21.040. Director's Decision and Recommendation.

The director will review and evaluate all claims received and process the claims consistent with ORS 195.312 and 195.314, supplemented by Tigard Municipal Code ("TMC") 18.710.060.B, C, and D and 18.710.100, except that appeal of the director's decision will be to the City Council. Following review and evaluation of the claim, the director will:

- A. Determine that the Claim is not eligible for compensation pursuant to ORS 195.300 – 195.336, and deny the Claim; or
- B. Adopt an order determining that the Claim is valid and direct that the Claimant be compensated for the reduction in the fair market value of the property; or
- C. Authorize the Claimant to use the property without application of the subject land use regulation to the extent necessary to offset the reduction in the fair market value of the property. The decision to allow the Claimant to use the property without application of the subject land use regulation or to compensate the Claimant shall be based on a determination of whether the public interest would be better served by compensating Claimant or by allowing the use without application of the subject land use regulation.

(Ord. 20-03 §1; Ord. 22-06 §2)

§ 1.21.050. Processing Fee.

The fee for processing a Claim for compensation shall be in an amount not to exceed the actual and reasonable cost of reviewing the Claim and shall be payable as follows:

- A. Upon filing the Claim for compensation, the Claimant shall also deposit with the city the amount of not less than \$1,000.00 as a deposit on the fee for review of the Claim.
- B. The city shall keep a record of all time, materials and expenditures spent processing the Claim. If the costs involved in processing the Claim do not exceed the deposit, the city shall return the unused portion of the deposit to the Claimant. If the costs of processing the Claim exceed the amount of the deposit, Claimant will receive an invoice for the excess costs, and shall be responsible to reimburse the city for all amounts in excess of the deposit prior to issuance of a final decision by the city on the Claim.

§ 1.21.060. Burden of Proof.

Claimants shall have the burden of proof on all matters under this chapter and under ORS 195.300-195.336. The Claimant bears sole responsibility for ensuring that the record before the city contains all information and evidence necessary to support the Claim.

§ 1.21.070. Judicial Review.

Judicial review of the city's decision shall be as provided in ORS 195.318.

(Ord. 08-09)

CHAPTER 1.22
PROCESSING REQUESTS FOR VESTED RIGHTS DETERMINATION FOR
PREVIOUSLY FILED MEASURE 37 CLAIMS

§ 1.22.010. Purpose.

The purpose of this chapter is to implement the provisions of Section 5(3) of Chapter 424, Oregon Laws 2007 by providing a process whereby claimants under Measure 37 who were issued waivers of land use regulations enacted by the city before the effective date of Chapter 424, Oregon Laws 2007, may request a decision from the city as to whether their waiver has vested.

§ 1.22.020. Definitions.

For the purposes of this chapter, the following definitions apply.

"Applicant" means a person who has obtained Measure 37 relief from the city and has applied for a City Vesting Decision.

"Application" means an application form created by the director and filed with the department by an applicant for a City Vesting Decision.

"City Vesting Decision" means a written decision by City Council that, as of December 6, 2007, the applicant did or did not have a common law vested right, pursuant to Section 5(3) of Chapter 424, Oregon Laws 2007, to continue and complete a use allowed pursuant to a Measure 37 waiver.

"Completed application" means an application deemed complete by the director.

"Council" means Tigard City Council.

"Department" means the Tigard Community Development Department.

"Director" means the Tigard Community Development Director.

"Measure 37" means Ballot Measure 37 approved by the voters in November, 2004, and codified as ORS 197.352, 2005 replacement part.

"Waiver" means an order by the City Council granting Measure 37 relief.

§ 1.22.030. City Council to Make Determination.

The City Council shall determine vested rights under Section 5(3) of Chapter 424, Oregon Laws 2007, pursuant to the criteria established by common law and described in Section 1.22.080.

§ 1.22.040. Basis of Determination.

A City Vesting Decision shall be based on whether the Applicant's use of the property complies with the Waiver, and whether the applicant has a common law vested right as of December 6, 2007, to complete and continue the use described in the Waiver.

§ 1.22.050. Application Procedure.

An applicant who obtained a waiver may submit an application to the department containing the information required in Section 1.22.060 and any other information necessary to address the

criteria to establish a common law vested right. The applicant is responsible for the completeness and accuracy of all information submitted with the application and all of the supporting documentation.

§ 1.22.060. Contents of Application.

An application for a vested rights determination shall include the following:

- A. The name, mailing address, and phone number of the applicant.
- B. A legal description and tax lot number(s) of the subject property as well as a street address for the property, if any.
- C. A copy of the Waiver.
- D. Evidence demonstrating that the applicant's use of the subject property is consistent with the Waiver.
- E. Information pertaining to the criteria described in Section 1.22.080 sufficient to enable the council to make a City Vesting Decision consistent with those criteria.
- F. The application fee as set forth in Section 1.22.070.

§ 1.22.070. Application Fee.

No application shall be deemed complete unless it is accompanied by a deposit in the amount of \$1,000.00. The fee for a determination of a vested right shall be the actual cost of processing the request for a determination including, but not limited to, costs of staff time, copying, mailing, and legal review. Prior to issuance of a City Vesting Decision, the costs to the city shall be deducted from the deposit. If any portion of the deposit remains, it shall be returned to the applicant. Payment of any costs remaining unpaid after application of the deposit is required before issuance of the City Vesting Decision.

§ 1.22.080. Criteria to Determine Vested Right.

In determining whether an applicant has a vested right to continue and complete a use allowed under a Waiver, the council shall consider and apply the following factors:

- A. The amount of money spent on developing the use in relation to the total cost of establishing the use.
- B. The good faith of the property owner.
- C. Whether the property owner had notice of the proposed change in law before beginning development.
- D. The types of expenditures and whether the expenditures could apply to other uses that are allowed under the new law.
- E. The kind of use, location and cost of the development.
- F. Whether the owner's acts rise beyond mere contemplated use or preparation, such as the leveling of land, boring test holes, or preliminary negotiations with contractors or architects.

G. Other relevant factors appropriate to the facts of each case and consistent with Oregon law.

§ 1.22.090. Burden of Proof.

An Applicant for a vested rights determination shall have the burden of proof of all matters asserted in the application, and of meeting the criteria in Section 1.22.080.

§ 1.22.100. Intent.

The intent of Section 1.22.080 is to recite common law criteria by which vested rights determinations may be made. It is not the intent of this section to replace, supplement, alter or supersede common law principles regarding vested rights.

§ 1.22.120. Notice of Vested Rights Hearing.

Notice of a vested rights hearing will be given as provided in TMC 18.710.080.A, except that the reference to the Land Use Board of Appeals will be deleted.

(Ord. 20-03 §2; Ord. 22-06 §2)

§ 1.22.130. Conduct of the Hearing.

A. At the commencement of the hearing, a statement shall be made to those in attendance that:

1. Lists the criteria set forth in Section 1.22.080; and
2. States that testimony and evidence shall be directed toward the relevant criteria described in the staff report or other criteria which the person testifying believes to apply to the decision.

B. The Record.

1. The record shall contain all testimony and evidence that is submitted and not rejected;
2. The City Council may take official notice of judicially cognizable facts pursuant to the applicable law. If the City Council takes official notice, it must announce its intention and allow the parties to the hearing to present evidence concerning the fact; and
3. The City Council shall retain custody of the record as appropriate, until a final decision is rendered.

C. Disclosure of Ex Parte Contacts and Conflicts of Interest.

1. City Council members shall disclose the substance of any pre-hearing ex parte contacts with regard to the matter at the commencement of the public hearing on the matter. The member shall state whether the contact has impaired the impartiality or ability of the member to vote on the matter and shall participate or abstain accordingly;
2. Any member of the City Council shall not participate in any proceeding or action in which any of the following has a direct or substantial financial interest: The member or member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, partner, any business in which the member is then serving or has served within the

previous two years, or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest shall be disclosed at the meeting of the City Council where the action is being taken;

3. Disqualification of a City Council member due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote;
4. If all members abstain or are disqualified, the administrative rule of necessity shall apply. All members present who declare their reasons for abstention or disqualification shall thereby be re-qualified to act;
5. In cases involving the disqualification or recusal of a hearings officer, the city shall provide a substitute hearings officer in a timely manner subject to the above impartiality rules;
6. Members of the City Council shall not:
 - (a) Communicate, directly or indirectly, with any party or representative of a party in connection with any issue involved in a hearing, except upon giving notice, and an opportunity for all parties to participate;
 - (b) Take notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case unless the parties are afforded an opportunity to contest the materials so noticed.
7. No decision or action of the City Council shall be invalid due to ex parte contacts or bias resulting from ex parte contacts with a member of the decision-making body if the member of the decision-making body receiving contact:
 - (a) Places on the record the substance of any written or oral ex parte communications concerning the decision or action;
 - (b) Makes a public announcement of the content of the communication and of the parties' right to rebut the substance of the communication made at the first hearing following the communication where action shall be considered or taken on the subject to which the communication is related;
8. A communication between City staff and the City Council shall not be considered an ex-partie contact.
9. Presenting and receiving evidence.
 - (a) The City Council may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant or personally derogatory testimony.
 - (b) No testimony shall be accepted after the close of the public hearing.
 - (c) The City Council may visit the site and the surrounding area, and may use information obtained during the site visit to support their decision, provided the information relied upon is disclosed at the hearing and that an opportunity is provided to rebut such evidence. In the alternative, a site visit may be conducted

by the City Council for the purpose of familiarizing the City Council with the site and the surrounding area, but not for the purpose of independently gathering evidence. In such a case, at the commencement of the hearing, members of the City Council shall disclose the circumstances of their site visit and shall provide the parties with an opportunity to question each member concerning their site visit.

§ 1.22.140. The Decision Process.

- A. Basis for Decision. Approval or denial of a vested right shall be based on standards and criteria set forth in Section 1.22.080.
- B. Findings and Conclusions. Approval or denial of a vested right shall be based upon and accompanied by a brief statement that explains the criteria and standards considered relevant to the decision, states the facts relied upon in rendering the decision and explains the justification for the decision based on the criteria, standards, and facts set forth.
- C. Form of Decision. The City Council shall issue a final order containing the above-referred findings and conclusions, which either grants or denies Applicant a vested right to continue and complete their Waiver.

§ 1.22.150. Notice of Decision.

Notice of a vested rights decision shall be mailed to the applicant and to all parties of record within five business days after the decision is filed by the City Council with the Director. Failure to receive mailed notice shall not invalidate the action, provided that a good faith attempt was made to mail such notice.

§ 1.22.160. Final Decision.

The decision of the City Council is the final decision of the city and is final and effective on the date notice of the decision is mailed.

§ 1.22.170. Review of Decision.

A decision by City Council on an application for a vested right shall be reviewed only as provided in ORS 34.010 to 34.100.

(Ord. 08-09)

GENERAL PROVISIONS

Title 2**ADMINISTRATION AND PERSONNEL**

CITY MANAGER	Chapter 2.04	§ 2.16.040.	Qualification of Judges.
§ 2.04.010.	Office Established.	§ 2.16.050.	Powers of Municipal Judge.
§ 2.04.020.	Appointment and Removal.	§ 2.16.060.	Time For Holding Court.
§ 2.04.030.	Salary.	§ 2.16.070.	Warrants.
§ 2.04.040.	Duties.		Chapter 2.28
§ 2.04.050.	Administrative Rulemaking—Definition—Purpose.		POLICE RESERVE
§ 2.04.060.	Administrative Rulemaking—Authority.	§ 2.28.020.	Creation—Membership.
§ 2.04.070.	Administrative Rulemaking—Procedure.	§ 2.28.030.	Membership—Revocation—Qualifications.
		§ 2.28.040.	Equipment and Uniform Requirements.
		§ 2.28.050.	Duty Restrictions.
CODE OF CONDUCT FOR APPOINTED OFFICIALS OF BOARDS, COMMITTEES AND COMMISSIONS	Chapter 2.07	§ 2.28.060.	Subject to Call.
		§ 2.28.070.	Jurisdiction of Police Department.
§ 2.07.010.	Purpose.	§ 2.28.080.	City Official Cannot Be Member.
§ 2.07.020.	Code of Conduct.		City Property to Be Returned Upon Membership Termination.
§ 2.07.030.	Removal Process.		Appointment of Lieutenant.
		§ 2.28.090.	Compensation Provisions and Contract Services.
		§ 2.28.100.	Powers and Privileges of Regular Police While Serving on Active Duty.
PLANNING COMMISSION AND HEARINGS OFFICER	Chapter 2.08	§ 2.28.110.	Chapter 2.30
§ 2.08.010.	Planning Commission.		POLICE DEPARTMENT
§ 2.08.100.	Powers and Duties of Commission.		
§ 2.08.105.	Downtown Design Review Board.	§ 2.30.010.	Established.
§ 2.08.110.	Hearings Officer.	§ 2.30.020.	Responsibility for Overall Operations.
§ 2.08.120.	Hearing Procedures.	§ 2.30.030.	Chief of Police—Appointment and Removal.
		§ 2.30.040.	Chief of Police—Supervision.
MUNICIPAL COURT	Chapter 2.16		
§ 2.16.010.	Title of Ordinance.		
§ 2.16.020.	Municipal Judge.		
§ 2.16.030.	Pro Tempore Municipal Judge.		

ADMINISTRATION AND PERSONNEL

§ 2.30.050.	Chief of Police—Responsibilities and Authority.	Chapter 2.46 LOCAL CONTRACT REVIEW BOARD
§ 2.30.060.	Authority to Inventory the Personal Effects of a Person Taken into Custody.	§ 2.46.010. Policy. § 2.46.030. Board—Powers—Authority to Adopt Rules.
§ 2.30.070.	Authority to Inventory the Contents of Impounded Vehicles.	§ 2.46.040. Organization of the Board. § 2.46.050. Rules of Procedures. § 2.46.060. Meetings—Notice—Agenda.
	Chapter 2.32 JAIL	Chapter 2.48 CITY RECORDS
§ 2.32.010.	County Jail Facilities.	§ 2.48.010. Duties of City Manager.
§ 2.32.020.	Use of County Facilities.	§ 2.48.020. Duties of Department Heads.
	Chapter 2.36 PUBLIC LIBRARY	§ 2.48.030. Adopts Oregon Administrative Rules and Records Retentions Schedule.
§ 2.36.010.	Title.	§ 2.48.040. Authorization for Destruction.
§ 2.36.020.	Established.	
§ 2.36.050.	Donated Funds.	
§ 2.36.060.	Fees.	
	Chapter 2.40 NOMINATING PROCEDURE	Chapter 2.52 ABANDONED, FOUND, SEIZED AND STOLEN PROPERTY
§ 2.40.010.	Petition—Form.	§ 2.52.010. Custody of Property.
§ 2.40.020.	Nomination Acceptance—Form—Furnished by City Recorder.	§ 2.52.020. Surrender to True Owner.
§ 2.40.030.	Filing Dates—Mayor.	§ 2.52.030. Sale of Property.
§ 2.40.040.	Filing Dates—City Council.	§ 2.52.040. Use of Property by City.
§ 2.40.050.	Filing Dates—Extension In Case of Weekend or Holiday.	§ 2.52.050. Dangerous or Perishable Property.
		§ 2.52.060. Scope.
		Chapter 2.56 RECORDER
	Chapter 2.44 MAYOR AND CITY COUNCIL	§ 2.56.010. Appointment and Removal.
§ 2.44.010.	Rules of Procedures.	Chapter 2.60 CITY ATTORNEY
§ 2.44.020.	Compensation.	§ 2.60.010. Appointment and Removal.

Chapter 2.64	§ 2.64.040.	Powers.
TOWN CENTER DEVELOPMENT	§ 2.64.050.	Limitation on Action.
AGENCY	§ 2.64.060.	Rules of Procedures.
	§ 2.64.070.	Advisory Commission Established.
§ 2.64.010.	Need Declared.	
§ 2.64.020.	Title.	
§ 2.64.030.	Membership.	

ADMINISTRATION AND PERSONNEL

Note: For statutory provisions allowing a city by agreement to provide for a jail, see ORS 169.030.

For Charter provisions allowing the compensation of each city officer to be fixed by the council, see Chapter III §11 of the Charter of the City of Tigard.

CHAPTER 2.04 CITY MANAGER

§ 2.04.010. Office Established.

Pursuant to Chapter III of the Charter of the City of Tigard, there is established the office of city manager of the City of Tigard, Oregon.

(Ord. 65-29 §1; Ord. 03-08)

§ 2.04.020. Appointment and Removal.

The office of city manager shall be filled by appointment by the mayor with the consent of the City Council. The city manager shall be the chief administrative officer of the city, and as such shall be chosen solely on the basis of administrative qualifications and experience, without regard to political considerations. Appointment and removal of the city manager by the mayor shall require the prior consent of a majority of the full council recorded at a public meeting. The city manager shall serve at the pleasure of the mayor and the City Council, and cause shall not be required for termination.

(Ord. 65-29 §2; Ord. 84-06 §1; Ord. 86-11 §1; Ord. 03-08)

§ 2.04.030. Salary.

The compensation for the services of the city manager shall be an amount fixed by action of the City Council by resolution.

(Ord. 65-29 §3; Ord. 03-08)

§ 2.04.040. Duties.

The city manager shall:

- A. Exercise control and supervision of all activities, departments and offices of city government, except the office of municipal judge and the office of city attorney, and shall interview, select and recommend to the mayor and council all applicants proposed for appointment to city offices, and make recommendations to the mayor and council concerning the replacement of any city appointive officer, other than the mayor and councilmembers, and shall have authority to appoint to and remove from established positions, subordinate employees of the city; provided, however, that department heads shall be appointed and removed after consultation with the mayor and council; and cause shall not be required for termination of department heads.
- B. Be the chief budget and fiscal officer of the city and shall perform the functions of budget officer as prescribed by the Local Budget Law of Oregon (Chapter 294 ORS).
- C. Supervise the administration, and be responsible for the enforcement of all laws and ordinances in effect within the city; and shall administer and enforce the policies, rules, procedures and resolutions duly adopted by the mayor and council; shall make such recommendations to the mayor and council concerning the affairs of the city as the city manager may deem desirable.
- D. Be the chief purchasing and business agent with respect to all departments of the city.
- E. Prepare and submit to the mayor and council financial and activity reports with respect to

each of the city departments, not less than monthly, and shall prepare and submit to the mayor and council such other reports as may be required or desirable concerning city affairs.

- F. Make available to the public usual and customary information concerning the operations of the city government.
 - G. Have authority to accept, on behalf of the city, offers of dedication and grants of interest in real property that are consistent with city policy, as shown by one of the following: any expansion or realignment of a public facility for which the city council has approved acquisition of right-of-way or declared necessity to acquire the same; any public facility shown on a city plan adopted and approved by the city council; and any public facility or easement required by the terms of a final land use approval. This delegation to the city manager includes the authority to accept right-of-way, including roads and public ways of whatever kind; road-related easements, including, but not limited to, temporary construction easements, drainage easements, and slope easements; water line easements; sanitary sewer easements; and stormwater easements. This delegation also includes the authority to relinquish easements held by the city which are no longer needed and for which a vacation process is not necessary. The city manager may further delegate this authority.
 - H. Perform such other and further duties as from time to time may be directed to be performed by resolution or motion of the City Council.
- (Ord. 65-29 §4; Ord. 72-25 §1; Ord. 81-52 §1; Ord. 85-05 §18; Ord. 86-11 §2; Ord. 03-08 ; Ord. 18-14 §1)

§ 2.04.050. Administrative Rulemaking—Definition—Purpose.

- A. "Administrative rulemaking" means the drafting, adoption, and amendment of administrative rules, pursuant to and consistent with the provisions of this section.
 - B. The purpose of administrative rulemaking is to ensure that standards and procedures by which the departments of the City of Tigard operate are made available and accessible to the public in written form, upon direction by council. Administrative rulemaking also establishes a process by which the public can be involved in the process of developing department standards and procedures through engaging in public comment.
 - C. "Administrative rule" means a written directive, standard, regulation or statement of general applicability that is established through administrative rulemaking and implements, interprets or prescribes law, or describes the procedure or practice requirements of any city department.
- (Ord. 11-06 §1)

§ 2.04.060. Administrative Rulemaking—Authority.

- A. The Tigard City Council hereby authorizes, and establishes the process for, administrative rulemaking consistent with this section.
- B. Administrative rules adopted pursuant to the administrative rulemaking procedures in this section have the full weight and effect of law.
- C. This section provides the authority and process applicable to administrative rulemaking by the city manager, but does not directly enable to the city manager to engage in

administrative rulemaking. Authority to engage in administrative rulemaking pursuant to the procedures in this section shall be enabled by separate provision of the Tigard Municipal Code.

- D. The scope of administrative rulemaking shall be limited by the terms of the enabling provision.
- E. All administrative rules shall be consistent with the Tigard Municipal Code.
(Ord. 11-06 §1)

§ 2.04.070. Administrative Rulemaking—Procedure.

- A. Prior to the adoption or amendment of an administrative rule, the city manager or designee will follow the provisions as described in this section.
 - 1. Fourteen days prior to initiating the public notice described in subsection A.2 of this section, notification shall be made to council of the proposed administrative rule or amendment. At any time following council notification, any councilmember may put the subject on the discussion agenda for the next available council meeting for council consideration or action. Public notice as described in subsection A.2 may be initiated 14 days after council notification if no councilmember requests council consideration or action. If the council considers or takes action on the item, provision of public notice as described in subsection A.2 shall be at the direction of council.
 - 2. Publish a notice in a newspaper of general circulation in the city. The notice must be published not less than 14 days before the deadline for receipt of comments.
 - 3. The notice shall provide a brief description of the subject(s) covered by the proposed administrative rule, the final date for acceptance of written comments, the location to submit comments, and the location where copies of the full set of the proposed rules may be obtained.
 - 4. The city manager or designee will receive written comments regarding the proposed administrative rule. The city manager or designee will take into consideration the written comments received and may either approve, modify or reject the proposed administrative rule.
 - 5. If a substantial modification is made to the proposed administrative rule, the city manager or designee may approve the modification, or provide additional public comments prior to approval.
 - 6. Unless otherwise stated, all administrative rules will be effective on the 14th day after approval by the city manager or designee unless a written protest is received by the city manager or designee.
 - 7. If written protest of the proposed administrative rule is received by the city manager or designee on or before the 14th day after approval, the city manager or designee shall refer the administrative rule to the City Council for a public hearing. The council may direct the city manager to approve, modify or reject the administrative rule. The council's decision on the contents of the proposed administrative rule shall be binding on the city manager.
- B. All administrative rules must be filed in the office of the city recorder.

City of Tigard, OR

§ 2.04.070

ADMINISTRATION AND PERSONNEL

§ 2.04.070

(Ord. 11-06 §1)

CHAPTER 2.07

**CODE OF CONDUCT FOR APPOINTED OFFICIALS OF BOARDS, COMMITTEES
AND COMMISSIONS**

§ 2.07.010. Purpose.

A committee member is appointed with the belief that the person will serve with integrity, perform the duties of the position and obey the laws of the federal, state, and local governments. This is required to protect the public's confidence in their local government's fair and effective operation.

This chapter applies to all boards, committees and commissions established by the City of Tigard.

(Ord. 10-17 §1)

§ 2.07.020. Code of Conduct.

The Tigard City Council shall define the Code of Conduct required of appointed committee members. The Code of Conduct shall be passed by Council resolution.

A violation of the Code of Conduct shall not be considered a basis for challenging the validity of any City committee decision.

(Ord. 10-17 §1)

§ 2.07.030. Removal Process.

A City committee member may be removed by the appointing authority for misconduct, nonperformance of duty or failure to obey the laws of the federal, state and local governments.

Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the committee member but is not required prior to removal from committee by the appointing authority.

(Ord. 10-17 §1)

**CHAPTER 2.08
PLANNING COMMISSION AND HEARINGS OFFICER**

§ 2.08.010. Planning Commission.

The Tigard Planning Commission advises the City Council on general land use and transportation planning issues; long-range capital improvement programs; and acts as a hearings body for applications of permits, land use applications and land use appeals, or other matters as directed by the City Council. The Planning Commission shall operate pursuant to bylaws approved by the City Council, which may only be amended by action of the City Council.
(Ord. 92-35 §2; Ord. 12-03 §1)

§ 2.08.100. Powers and Duties of Commission.

- A. Except as otherwise provided by the City Council and described in the commission's bylaws, the Tigard Planning Commission may:
 1. Recommend and make suggestions to the City Council and to other public authorities concerning:
 - a. The long range comprehensive land use plans for the city, as well as any land use plans for specific areas within the city;
 - b. Plans for the city-wide transportation system, including the laying out, widening, extending and locating of public thoroughfares; relieving traffic congestion conditions; bicycle and pedestrian facilities; transit facilities and routes; design standards for transportation facilities; and parking lot regulations;
 - c. Any proposals to adopt or amend planning documents for the city-wide transportation system, including the transportation map of the comprehensive plan and the transportation capital facilities program;
 - d. Establishment of districts for limiting the use, height, area, design, bulk and other characteristics of buildings and structures related to land development, including the creation of and amendments to the Tigard development code and the zoning map;
 - e. Betterment of housing and sanitation conditions;
 - f. Protection and assurance of solar access;
 - g. Plans for regulating the future growth, development and design of the city with respect to its public and private buildings and works, streets, parks, grounds and vacant lots;
 - h. Plans to secure to the city and its inhabitants sanitation, proper service of public utilities and telecommunications utilities, and shipping and transportation facilities;
 - i. Appropriate measures for energy conservation;
 - j. Plans for promotion, development and regulation of industrial and economic activities in the community.

2. Do and perform all other acts and things necessary or proper to carry out the provisions of ORS 227.010 to 227.170, and 227.175 to 227.180.
 3. Study and propose such measures as are advisable for promotion of the public interest, health, morals, safety, comfort, convenience and welfare of the city, including the area that is expected to eventually become a part of the city through annexation
- B. The City Council shall assign to the Planning Commission such facilities and services as necessary to enable the commission to hold its meetings, transact its business and keep its records.

(Ord. 92-35 §2; Ord. 12-03 §1)

§ 2.08.105. Downtown Design Review Board.

- A. The council may appoint or designate a subcommittee of the Planning Commission as the Downtown Design Review Board. The Downtown Design Review Board shall have the power to conduct Type III-C hearings on applications for permits as specified in Title 18 of this code.
- B. The subcommittee shall consist of a minimum of three members or alternate members of the Planning Commission.
- C. A majority of the designated subcommittee shall constitute a quorum. A majority vote of those members present at an open meeting of the board shall be necessary to legally act on any matter before the board.

(Ord. 10-12 §1; Ord. 12-03 §1)

§ 2.08.110. Hearings Officer.

The council may appoint or designate one or more qualified persons as Planning and Zoning Hearings Officer(s), to serve at the pleasure of the City Council. The hearings officer(s) shall have the power to conduct hearings on applications for permits.

(Ord. 92-35 §2; Ord. 12-03 §1)

§ 2.08.120. Hearing Procedures.

- A. Procedures for the conduct of quasi-judicial hearings as prescribed by Title 18 of this code shall apply with respect to the conduct of hearings by the Planning Commission, Downtown Design Review Board and hearings officer.
- B. Procedures for the conduct of legislative hearings as prescribed by Title 18 of this code shall apply with respect to the conduct of legislative hearings by the Planning Commission.

(Ord. 92-35 §2; Ord. 12-03 §1)

CHAPTER 2.16 MUNICIPAL COURT

§ 2.16.010. Title of Ordinance.

The ordinance codified in Chapters 2.16 through 2.26 shall be known as the "City of Tigard Court Procedures Ordinance of 1985" and may be cited as such.
(Ord. 85-26 §1)

§ 2.16.020. Municipal Judge.

The office of Municipal Judge of the City of Tigard, as provided by Section 10 of Chapter III of the Charter, shall be held by one incumbent who shall be appointed solely on the basis of qualifications and experience without regard to political considerations. Appointment and removal of the Municipal Judge by the Mayor shall require the prior consent of a majority of the full Council recorded at a public meeting. Cause shall not be required for removal of the Municipal Judge.

The compensation of the Municipal Judge shall be fixed by resolution of the City Council.
(Ord. 85-26 §1; Ord. 86-11 §5, 1986)

§ 2.16.030. Pro Tempore Municipal Judge.

The office of Pro Tempore Municipal Judge of the Municipal Court for the City is created. One or more pro tempore municipal judges may be incumbent at any given time. The holder(s) of the office shall be subject to appointment and removal in like manner as herein provided with respect to the Municipal Judge. A pro tempore municipal judge shall act only when the Municipal Judge is unable to perform his duties by reason of absence from the City, illness, vacation, disqualification as provided by ORS §221.353, or as specifically determined by the Court Administrator, and in such circumstances the court personnel will assign one of the pro tempore judges to serve in lieu of the Municipal Judge.

The Pro Tempore Municipal Judge shall have the same powers and be compensated in the same manner as the Municipal Judge.
(Ord. 85-26 §1; Ord. 87-36 §1; Ord. 01-14)

§ 2.16.040. Qualification of Judges.

The incumbent in the office of Municipal Judge and each of the offices of Pro Tempore Municipal Judge shall be a person in good standing to practice law before the Supreme Court of the state of Oregon.

(Ord. 85-26 §1)

§ 2.16.050. Powers of Municipal Judge.

The Municipal Judge when acting as such, shall perform all the duties and have all the inherent and statutory powers of a Justice of the Peace within the jurisdictional limits of the office of Municipal Judge, and such additional powers as may be specifically conferred by the Tigard Municipal Code, including the power to issue search warrants and warrants to enter property and abate civil infractions.

(Ord. 85-26 §1; Ord. 99-01 ; Ord. 01-14)

§ 2.16.060. Time For Holding Court.

The Municipal Judge shall establish by order a regular time and regular place for holding court sessions. In addition, Municipal Court may be held at such other times as the Judge deems reasonable and necessary for the protection of the rights of persons accused of violation of City ordinances.

(Ord. 85-26 §1)

§ 2.16.070. Warrants.

A warrant may be issued if the Municipal Judge is satisfied that there are facts and circumstances tending to show that the objects of the requested search are in the places identified in the request, or, in the case of a warrant to enter property and abate a civil infraction, that the infraction exists. Request for warrants should normally be supported by affidavits, however, when circumstances make it impractical for the warrant to be obtained in person it may be granted by telephone based on oral statements made under oath. The oral statement shall be recorded and transmitted and retained as a part of the record of the proceeding.

(Ord. 99-01)

CHAPTER 2.28 POLICE RESERVE

§ 2.28.010. Creation—Membership.

There is created an organization of police officers in the City to be known as the "Tigard Police Reserve," to be composed of a voluntary membership of not to exceed fifteen members who shall be under the jurisdiction and subject to duty on call of the Chief of Police.

(Ord. 68-49 §1)

§ 2.28.020. Membership—Revocation— Qualifications.

Membership in the Police Reserve shall be for an indefinite term. Such membership may be revoked at any time by the Chief of Police for the good of the City or may be canceled at any time by a member on written notification to the Chief of Police. Members shall be not less than twenty-one years of age. Their applications will be approved and confirmed by the Chief of Police, and each member must take the oath of office as prescribed by the City Charter.

(Ord. 68-49 §2; Ord. 01-16)

§ 2.28.030. Equipment and Uniform Requirements.

The City shall furnish and maintain uniforms for reserve officers. All reserves will be required to purchase their own protection vest, weapon, duty belt and equipment. The protection vest will be replaced when needed, as determined by the Chief of Police, at City expense.

(Ord. 68-49 §3; Ord. 92-32 §1)

§ 2.28.040. Duty Restrictions.

Except when on duty by call of the Chief of Police or other authority of the City, the members of the Police Reserve shall perform no police functions other than those granted to all citizens of the state of Oregon by the laws thereof.

(Ord. 68-49 §4)

§ 2.28.050. Subject to Call.

Members of the Police Reserve shall at all times be subject to call and the performance of such police duties as may be assigned to them and shall report for duty at such intervals and times that shall be fixed or determined by order of the Chief of Police.

(Ord. 68-49 §5)

§ 2.28.060. Jurisdiction of Police Department.

Members of the organization shall be subject to the orders of the regularly constituted authority of the City and shall be directly responsible to the Chief of Police and under his jurisdiction and that of the other officers of the police department of the City and of the Police Reserve. Members found guilty of insubordination or conduct unbecoming an officer, or who shall have been convicted of any crime involving moral turpitude, or who for any reason shall be regarded as unsatisfactory as a member of such organization, may be dismissed from service in the Police Reserve by the Chief of Police.

(Ord. 68-49 §6)

§ 2.28.070. City Official Cannot Be Member.

No official of the City, whether appointed or elected, may be a member of the Police Reserve.
(Ord. 68-49 §7)

§ 2.28.080. City Property to Be Returned Upon Membership Termination.

Upon termination of membership in the Police Reserve for whatever reason, all property of the City in the possession of the retiring member shall be surrendered and delivered to such official as the Chief of Police shall designate to receive the same.

(Ord. 68-49 §8)

§ 2.28.090. Appointment of Lieutenant.

There may be appointed by the Chief of Police, a lieutenant of the Police Reserve who shall not be an active member of the regular police force of the City, but shall be a member in good standing of the Police Reserve and shall, subject to regulations imposed by the Chief of Police, be the executive officer of the Police Reserve. Additional lieutenants and sergeants may from time to time be appointed by the Chief of Police from members of the reserve to serve at his pleasure.

(Ord. 68-49 §9)

§ 2.28.100. Compensation Provisions and Contract Services.

- (a) Members of the Police Reserve shall receive no compensation for their membership therein or while on duty as such unless the Chief of Police declares an emergency and then they would be paid based on Police Officer rate.
- (b) However, subsection (a) of this section shall not prohibit the City from contracting with public or private entities for services provided by reserve police officers including, but not limited to, providing security and directing traffic, and shall charge base Police Officer rate for such services.
- (c) While on duty as a Reserve Officer, each individual will be covered by the City workers' compensation insurance for work-related injuries and under the City's liability policy as long as they are acting within the scope and responsibility of their position, unless prohibited by a separate agreement.

(Ord. 68-49 §10; Ord. 92-32 §2)

§ 2.28.110. Powers and Privileges of Regular Police While Serving on Active Duty.

When serving on active duty at the call of the Chief of Police or other authority of the City, members of the Police Reserve shall be entitled to all the powers and privileges of a regular Police Officer of the City and subject to all the duties and regulations and responsibilities thereof. The responsibility of citizens to assist police officers in pursuit of their duties shall apply to the members of the Police Reserve while on active duty in the same manner as to any other police officer.

(Ord. 68-49 §11)

CHAPTER 2.30 POLICE DEPARTMENT

§ 2.30.010. Established.

Primary responsibility for law enforcement is placed with the police department. The police department for the City of Tigard shall consist of a chief of police and as many employees as the city council may designate from time to time.

(Ord. 80-70 §1)

§ 2.30.020. Responsibility for Overall Operations.

The city manager is responsible for the overall operations of the police department and, with direction from the city council and advice from the police chief, shall formulate lawful policy relating to the goals, objectives, and priorities of the police department and their relationship to general municipal strategies.

(Ord. 80-70 §2; Ord. 03-08)

§ 2.30.030. Chief of Police—Appointment and Removal.

The chief of police shall be appointed by the city manager. The chief of police shall serve at the pleasure of the city manager and may be removed by the city manager at any time without cause.

(Ord. 80-70 §3; Ord. 86-11 §6; Ord. 03-08)

§ 2.30.040. Chief of Police—Supervision.

The city manager shall be the immediate supervisor of the chief of police, and all policies, directives and orders from the city government to the chief of police shall be made by, or transmitted through, the city manager as the chief executive of the city government.

(Ord. 80-70 §4; Ord. 03-08)

§ 2.30.050. Chief of Police—Responsibilities and Authority.

The chief of police shall establish written, and where possible, quantifiable and measurable, goals and objectives based on policies transmitted to him or her by the city manager and shall be responsible for directing the administration and operations of the police department toward the achievement of these goals and objectives through written policies, procedures and rules, and through personal leadership. The chief of police shall provide for an annual public review and evaluation of all department goals and objectives, and progress made toward their achievement. The chief of police shall recommend to the city manager qualified persons for appointments to all vacant positions within the department other than his or her own, and the chief of police shall have the authority to suspend or dismiss any member of the police department subject to the approval of his or her action by the city manager.

(Ord. 80-70 §5; Ord. 03-08)

§ 2.30.060. Authority to Inventory the Personal Effects of a Person Taken into Custody.

A. In order to protect the owner's property, safeguard the police department against the assertion of false claims, and protect police department members and others when reasonable suspicion exists to believe that any individual's safety is at risk, every person taken into lawful custody by the police department shall have his or her personal effects

inventoried. For purposes of this section, the term "custody" shall mean the imposition of actual or constructive restraint by a police officer pursuant to any lawful authority for the purposes of transporting or involuntarily confining a person pursuant to Oregon Revised Statute.

- B. The chief of police shall institute regulations describing the manner in which this inventory shall be conducted. These regulations shall eliminate any discretion as to what effects are subject to inventory and shall limit the inventory as follows:
 - 1. All items of personal property shall be removed from the clothing worn by a custodial person.
 - 2. All open containers in possession of the custodial person shall have their contents inventoried.
 - 3. All containers designed for carrying valuables, including, but not limited to, wallets, purses, coin purses, fannypacks, and backpacks, shall have their contents inventoried.
 - 4. Any valuables found during the inventory and not left in the immediate possession of the custodial person shall be detailed in writing on a property receipt filed with the police department.
 - 5. All closed opaque containers found during the inventory shall not have their contents inventoried except as described above, or where the container is to be placed in the custodial person's possession, or where the custodial person requests that the closed opaque container be placed in his or her immediate possession.
- C. Nothing in this section shall be construed in any way to limit the police department's ability to conduct any lawful search.

(Ord. 96-07)

§ 2.30.070. Authority to Inventory the Contents of Impounded Vehicles.

- A. In order to protect owners' property, safeguard the police department against the assertion of false claims and protect police department members and others when reasonable suspicion exists to believe that any individual's safety is at risk, every vehicle lawfully impounded shall have its contents inventoried. The inventory shall be conducted before the vehicle is released to a third party except under the following circumstances:
 - 1. If there is reasonable suspicion to believe that any individual's safety will be placed at risk the inventory shall be conducted after such safety concerns are no longer present; or
 - 2. If the vehicle is being impounded for evidentiary purposes in connection with the investigation of a criminal offense, the inventory will be done after such investigation is completed.
- B. The chief of police shall institute regulations consistent with this section describing the manner in which this inventory shall be conducted. These regulations shall eliminate any discretion as to how an inventory shall be conducted, and shall limit the inventory as follows:
 - 1. All open container contents found throughout the passenger compartments, any

unlocked compartments that are part of the vehicle, including but not limited to, unlocked vehicle trunks and unlocked property containers attached to the car, and any locked compartments including, but not limited to, locked vehicle trunks, locked property containers attached to the car, if either the keys to these locked compartments are available to be released with the vehicle to a third party, or an unlocking mechanism for such compartment is available within the vehicle shall be inventoried.

2. An inventory of personal property will be conducted throughout the passenger compartments of the vehicle including, but not limited to, accessible areas under or within the dashboard area, in any door or seat pockets, any console between the seats, or under any seat within the passenger compartment.
 3. In addition to any of the above-described areas, an inventory of personal property will also be conducted in any unlocked compartment that is a part of the vehicle including, but not limited to, unlocked vehicle trunks and unlocked property containers attached to the vehicle. An inventory of personal property shall be conducted throughout any locked compartments that are part of the vehicle including, but not limited to, locked vehicle trunks, and locked property containers attached to the vehicle, if either the keys are available to be released with the vehicle to a third party or an unlocking mechanism for such compartment is available within the vehicle.
 4. Except as otherwise allowed by this subsection, closed opaque containers shall not be opened, but rather shall be inventoried consistent with their outward appearances only. Purses, wallets, fannypacks, backpacks, and other similar items designed to contain valuables shall be opened and their contents shall be inventoried.
 5. All items not left in the immediate possession of the arrested person shall be inventoried in writing and kept on file at the police department.
- C. Nothing in this section shall be construed in any way to limit the police department's ability to conduct any lawful search.

(Ord. 96-07)

**CHAPTER 2.32
JAIL**

Note: For statutory provisions allowing a city by agreement to provide for a jail, see ORS 169.030.

§ 2.32.010. County Jail Facilities.

The County Jail of Washington County, Oregon, at the Courthouse in Hillsboro, is designated as a jail or prison for the reception and confinement of prisoners of the City of Tigard.

(Ord. 85-26 §1)

§ 2.32.020. Use of County Facilities.

The terms of the use of the facilities designated in Section 2.32.010 by the City shall be in accordance with agreements entered into between the City of Tigard and Washington County.

(Ord. 85-26 §1)

**CHAPTER 2.36
PUBLIC LIBRARY**

§ 2.36.010. Title.

The ordinance codified in this chapter shall be known and may be cited as "The City of Tigard Library Ordinance."
(Ord. 72-30 §1)

§ 2.36.020. Established.

A public library is established in and for the City of Tigard, Oregon.
(Ord. 72-30 §2)

§ 2.36.050. Donated Funds.

All funds donated to the City for library purposes shall be subject to the same rules, regulations and expenditure control as applicable to appropriated funds; provided, however, that such donated funds shall be accounted for under the caption of "public library donations," and such funds shall be subject to expenditure only for the purposes for which donated, except that funds received from donors without specific limitations as to use may be used for general library purposes.

(Ord. 72-30 §5)

§ 2.36.060. Fees.

A. Users and patrons who reside in or have their business within Washington County shall not be required to pay a library privilege fee, but shall be liable to pay any fees as may be prescribed by resolution of the Council.

B. All fees and charges received shall be accounted for as general fund receipts under the heading of "public library."

(Ord. 72-30 §6; Ord. 76-55 §1; Ord. 84-35 §3; Ord. 22-07 §2)

**CHAPTER 2.40
NOMINATING PROCEDURE**

§ 2.40.010. Petition—Form.

- (1) The form of nominating petition for all candidates for elective positions within the City shall substantially conform to the form designated by the Secretary of State.
- (2) Nomination to an elective city office shall be by petition signed by at least 20 qualified electors. Such qualified electors shall be duly registered voters under the laws of Oregon and shall be currently eligible to vote at any regular or special election of the City of Tigard.
- (3) A person filing a nomination petition shall pay a fee, which shall be tendered at the time of filing the completed nomination petition form with the City Recorder. The fee amount will be set by Resolution of the Tigard City Council.
(Ord. 64-19 §1; Ord. 86-05 §1; Ord. 08-06)

§ 2.40.020. Nomination Acceptance—Form—Furnished by City Recorder.

The City Recorder is authorized and directed to furnish, upon nomination of a candidate for elective positions within the City, a notification of nomination and acceptance of nomination form conforming to the format adopted by Resolution of the Tigard City Council.

(Ord. 64-19 §2; Ord. 86-05 §2; Ord. 08-06)

§ 2.40.030. Filing Dates—Mayor.

Except as otherwise provided by this section, the filing deadline for all persons filing for the position of Mayor shall be the thirty first day preceding the date the City Recorder is required by law to transmit to the County Clerk a list of the offices to be filled and the names of the persons to appear on the ballot; and

- (1) At the time of filing, any councilperson filing for Mayor whose term would overlap with that of Mayor shall submit a resignation in the form required by the Charter; and
- (2) Within five days after the filing deadline, the City Recorder shall verify the signatures and shall provide a form to the nominee stating that the correct number of signatures have been submitted and that the signatures are valid; and
- (3) Within five days after receipt of the form from the City Recorder verifying the petition, the nominee shall accept or decline the nomination, and if the nominee is a councilperson whose term would be concurrent with that of Mayor, the nominee shall submit a letter of resignation as required by the Charter.
(Ord. 84-05 §1(a); Ord. 86-06 §1)

§ 2.40.040. Filing Dates—City Council.

The filing deadline for a City Council position shall be eleven days preceding the date the City Recorder is required by law to transmit to the County Clerk a list of the offices to be filled and the names of the persons to appear on the ballot; and:

- (1) Within five days after the filing deadline, the City Recorder shall verify the signatures and shall provide a form to the nominee stating that the correct number of signatures have been

submitted and that the signatures are valid; and

- (2) Within five days after receipt of the form from the City Recorder verifying the petition, the nominee shall accept or decline the nomination.
- (Ord. 84-05 §1(b))

§ 2.40.050. Filing Dates—Extension In Case of Weekend or Holiday.

In the situation where one of the dates listed in Sections 2.40.030 and 2.40.040 falls on a weekend or legal holiday, the time for filing shall be extended to 4:00 p.m. on the following workday; however, this extension shall not change any of the other prescribed dates.

(Ord. 84-05 §2)

**CHAPTER 2.44
MAYOR AND CITY COUNCIL**

§ 2.44.010. Rules of Procedures.

1. The Mayor and Council shall serve with integrity, perform the duties of the position and obey the laws of the federal, state and local governments. This is required to protect the public's confidence in the integrity of their local government's fair and effective operation.
2. Council Groundrules will govern proceedings of the Council where they do not conflict with statutory provisions. Council Groundrules will include a code of conduct. Council Groundrules shall be passed by Council resolution.
3. A violation of the Council Groundrules shall not be considered a basis for challenging the validity of any City Council decision.
4. The Mayor or a member of Council may be subject to a Council Resolution of Censure for misconduct, nonperformance of duty and failure to obey the laws of the federal, state and local governments. Misconduct includes not honoring the provisions of the Council Groundrules.
5. Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the Mayor or member of Council but is not required prior to passage of a Resolution of Censure.

(Ord. 10-16 §1)

§ 2.44.020. Compensation.¹

For attendance at regularly scheduled meetings of the City Council and meetings for an intergovernmental board, committee, or agency, each duly appointed or elected Councilmember and the Mayor shall be entitled to compensation. The amount of compensation may be reviewed and set annually by resolution of the City Council as part of the budget cycle.

(Ord. 62-10 §1; Ord. 72-23 §1; Ord. 73-21 §1; Ord. 77-76 §1; Ord. 84-57 ; Ord. 87-35 §1; Ord. 95-22 ; Ord. 10-16 §1)

1. For Charter provisions allowing the compensation of each city officer to be fixed by the Council, see Chapter III §11 of the Charter of the City of Tigard.

**CHAPTER 2.46
LOCAL CONTRACT REVIEW BOARD**

§ 2.46.010. Policy.

- A. All public contracts must be based upon competitive bidding except as expressly provided by state law, this chapter, or the rules adopted by the board.
- B. If federal funds are involved in any contract subject to this chapter, federal laws, rules, and regulations will control in the event of conflict with state law or this chapter.
(Ord. 85-05 §2; Ord. 96-08 ; Ord. 01-24 §2; Ord. 20-06 §1)

§ 2.46.030. Board—Powers—Authority to Adopt Rules.

- A. The City Council will be the local contract review board ("board").
- B. The board has all authorities allowed by City Charter, board rules, and state statute.
- C. The board is authorized to adopt rules necessary to carry out this chapter and the Oregon Public Contracting Code.
(Ord. 85-05 §4; Ord. 96-08 ; Ord. 01-24 §4; Ord. 20-06 §1)

§ 2.46.040. Organization of the Board.

- A. The mayor will serve as the chair of the board and the council president as vice-chair.
- B. The chair will preside over the meetings and, in the absence of the chair, the line of succession will be the same as the line of succession which applies to the Council.
(Ord. 85-05 §5; Ord. 96-08 ; Ord. 01-24 §5; Ord. 20-06 §1)

§ 2.46.050. Rules of Procedures.

- A. The board will serve with integrity, perform the duties of the position and obey the laws of the federal, state, and local governments. This is required to protect the public's confidence in the integrity of their local government's fair and effective operation.
- B. Council ground rules will govern proceedings of the board where they do not conflict with these rules or statutory provisions.
- C. A violation of the council ground rules may not be considered a basis for challenging the validity of any board decision.
(Ord. 85-05 §6; Ord. 96-08 ; Ord. 01-24 §6; Ord. 10-16 §2; Ord. 20-06 §1)

§ 2.46.060. Meetings—Notice—Agenda.

- A. The applicable provisions of the Oregon Public Meetings Law control the notice and character of meetings of the board.
- B. Meetings of the board may be scheduled at any time including before, during, or after a regularly scheduled council meeting.
- C. Routine board business may be conducted on the consent agenda of a regularly scheduled council meeting.

(Ord. 85-05 §7; Ord. 96-08 ; Ord. 01-24 §7; Ord. 20-06 §1)

CHAPTER 2.48 CITY RECORDS

§ 2.48.010. Duties of City Manager.

The City Manager is authorized and directed to cause to have all papers, documents and records received in all City departments maintained and preserved, as necessary, to assure an expeditious and orderly filing system. All records or documents to be stored shall be placed in transfer files or suitable containers that will insure the safekeeping of all documents and records, and each file or container shall be clearly marked as to the type of record or document contained therein, with the date of disposal, if any, noted on each file or container.

(Ord. 69-14 §1; Ord. 03-08)

§ 2.48.020. Duties of Department Heads.

Within a reasonable time after the completion of the post audit or the City's affairs for each fiscal year, the City Manager is authorized and directed to have City Recorder or designee examine records of each department for classification as to time of retention as set forth under Section 2.48.030. All records thereby determined to be eligible by the passage of time as set forth in Section 2.48.030 for disposal shall be segregated from all other records. The City Recorder or designee shall prepare a certificate in the form prescribed by Section 2.48.040 and shall attach thereto a general description of the records proposed thereby to be destroyed. Such certificate shall be tendered to each department head for review. Upon their approval of the list, it shall be submitted to the City Manager for examination. If the City Manager determines that the records thus described are no longer required for any known purpose of the City and otherwise meet the prescribed time classification for disposal, the City Manager is authorized to approve the destruction of the records. Retention periods for the records notwithstanding, the City Manager is authorized and directed to forego the destruction of any documents which, in his opinion, might have a continuing value for reference or other public purpose. Records authorized by the City Manager to be disposed of shall be destroyed by burning or by such other means or method as the City Manager may approve. A suitable file of certificates of records authorized to be destroyed shall be maintained at all times.

(Ord. 69-14 §2; Ord. 89-25 §1; Ord. 03-08)

§ 2.48.030. Adopts Oregon Administrative Rules and Records Retentions Schedule.

The City adopts the Oregon State Archives General Records Retention Schedule as adopted in the Oregon Administrative Rules, Chapter 166, Division 200 as the retention classification for city records. Retention classification for records not identified in the Oregon Administrative Rules, Chapter 166, Division 200 will be scheduled separately following the procedures specified in Oregon Administrative Rule 166-30-027. Retention periods are from the date of the creation of the record unless otherwise indicated.

(Ord. 84-02 §1; Ord. 89-25 §2; Ord. 98-13)

§ 2.48.040. Authorization for Destruction.

The form of the certificate of records authorized to be destroyed shall be retained in the office of the City Recorder and is prescribed pursuant to the foregoing provisions of this chapter.

(Ord. 69-14 §4; Ord. 89-25 §3)

CHAPTER 2.52
ABANDONED, FOUND, SEIZED AND STOLEN PROPERTY

§ 2.52.010. Custody of Property.

Whenever any personal property other than a motor vehicle, personal property, or signs removed from the right-of-way pursuant to Chapter 6.03, is taken into the custody of any department of the city by reason of its having been abandoned, found, seized, or for any other reason, the personal property shall be turned over to and held by the police department at the expense and risk of the owner or person lawfully entitled to possession of it.

(Ord. 81-37 §1; Ord. 10-06 §2; Ord. 12-02 §3)

§ 2.52.020. Surrender to True Owner.

Except when the property in question has been confiscated or is being held as evidence, the owner or person lawfully entitled to possession may reclaim it upon application to the police department. The department shall require satisfactory proof of ownership or right to possession, and the department shall further require the payment of any charges and expenses incurred in the storage, preservation and custody of the property.

(Ord. 81-37 §2)

§ 2.52.030. Sale of Property.

- A. At any time after the expiration of 60 days from the conclusion of all criminal actions related to the seizure of the property or after 60 days from the conclusion of the investigation if no criminal action is filed, the chief of police may sell the property at public auction. The chief of police shall not sell any such property held in evidence in any court proceeding until the need for its use in that proceeding has passed.
- B. The auction may be conducted in conjunction with other law enforcement agencies. The auction company, as agent for the police department, shall give notice of the sale once by publication in a newspaper of general circulation in the city at least 31 days before the date of sale. Notice must also be posted in at least three public places within the City of Tigard. A copy of the notice shall also be sent to any person that the police department has reason to believe has an ownership or security interest in the property. The notice shall give the time and place of the sale and shall describe generally the property to be sold at the sale. The notice shall include a statement in substantially the following form:

NOTICE

The Tigard Police Department has in its physical possession the unclaimed personal property described below. If you have any ownership interest in any of that unclaimed property, you must file a claim within 30 days from the date of publication of this notice, or you will lose your interest in that property.

- C. All sales of property under this chapter shall be for cash and shall be made to the highest and best bidder; provided, however, that any person appearing at or prior to the sale and proving ownership or right of possession to the property in question shall be entitled to reclaim it upon the payment of the charges and expenses incurred by the city in the storage, preservation and custody of the property and a proportionate share of the costs of advertising for the sale.

- D. If no bids are entered for the property or if the highest bid is less than the costs incurred by the city, the chief of police may enter a bid on behalf of the city in an amount equal to such costs. If bid in by the city, the property shall become the property of the city as compensation for the costs incurred.
- E. The auction company shall provide the city with a detailed list of items sold and the monies received for each item. The proceeds of the sale shall be applied first to payment of the costs of the sale and any expenses incurred in the preservation, storage and custody of the property, and any balance shall be credited to the general fund of the city. The auction company shall be responsible for issuance of a receipt of sale to the purchaser of the property.
- F. The sale of property pursuant to this chapter shall be without right of redemption.
- G. The City of Tigard assumes no responsibility as to the condition of the title to the property which is the subject of this transaction. In the event this sale should for any reason be invalid the liability of the city is limited to the return of the purchase price.

(Ord. 81-37 §§3, 4; Ord. 90-05 §1; Ord. 02-11)

§ 2.52.040. Use of Property by City.

- A. In lieu of a sale of the property under Section 2.52.030, at any time the city is authorized to sell the property the city manager may, at the request of the chief of police, convert the property to public use by entering it on the city's fixed asset inventory.
- B. Notice of the transfer of the property to the city shall be given once by publication in a newspaper of general circulation in the city at least 31 days before the property is converted to city use. The notice shall describe the property and state that the described property shall be converted to city use if the property is not reclaimed within 30 days. Any claim of ownership shall be subject to the provisions of Section 2.52.020.
- C. If the property is not reclaimed within 30 days after publication of the notice described in subsection B of this section, the property shall be entered on the city's fixed asset inventory and shall not be subject to the right of redemption.

(Ord. 90-05 §2; Ord. 02-11)

§ 2.52.050. Dangerous or Perishable Property.

The chief of police may order the destruction or other disposal of any property coming into his or her possession which is, in his or her judgment, dangerous or perishable. Weapons shall be destroyed in accordance with ORS 166.280.

(Ord. 81-37 §5; Ord. 02-11)

§ 2.52.060. Scope.

This chapter shall apply to all personal property, except motor vehicles, personal property, or signs removed from the right-of-way pursuant to Chapter 6.03, now or hereafter in the custody of the City of Tigard.

(Ord. 81-37 §6; Ord. 10-06 §2; Ord. 12-02 §3)

**CHAPTER 2.56
RECORDER**

§ 2.56.010. Appointment and Removal.

The office of Recorder of the City of Tigard, as provided by Section 10 of Chapter III of the Charter, shall be filled by appointment by the consent of the Council and shall be upon the advice of the City Manager. The Recorder shall be appointed solely on the basis of qualifications and experience and without regard to political considerations. Appointment and removal of the Recorder shall be upon the advice of the City Manager and require the prior consent of a majority of the full Council recorded at a public meeting. Cause shall not be required for removal of the City Recorder.

(Ord. 84-06 §3; Ord. 86-11 §7; Ord. 86-64 §1; Ord. 01-19 §5)

**CHAPTER 2.60
CITY ATTORNEY**

§ 2.60.010. Appointment and Removal.

The City Attorney shall be appointed by the consent of the Council. The Attorney shall be appointed solely on the basis of qualifications and experience and without regard to political considerations. Appointment and removal of the Attorney shall require the prior consent of a majority of the full Council recorded at a public meeting. Cause shall not be required for removal of the City Attorney.

(Ord. 84-06 §4; Ord. 86-11 §9; Ord. 01-19 §6)

**CHAPTER 2.64
TOWN CENTER DEVELOPMENT AGENCY**

§ 2.64.010. Need Declared.

Pursuant to ORS 457.035, the city council declares that blighted areas now exist in the city and that there is currently a need for an urban renewal agency to function in the city.
(Ord. 89-05 §1)

§ 2.64.020. Title.

The urban renewal agency created by this chapter shall be known as the Town Center Development Agency.
(Ord. 89-05 §2; Ord. 17-21 §1)

§ 2.64.030. Membership.

The Town Center Development Agency shall be comprised of members of the city council as it lawfully exists from time to time. Any change in membership of the city council shall automatically, and without need for further legislative action, constitute an identical change in the membership of the Town Center Development Agency.
(Ord. 89-05 §3; Ord. 17-21 §1)

§ 2.64.040. Powers.

Subject to the limitations imposed by Section 2.64.050, the Town Center Development Agency shall have authority to exercise all powers available to the agency under ORS Chapter 457, including, but not limited to, the power of eminent domain. The powers conferred to this agency by ORS Chapter 457 are in addition and supplemental to the powers conferred by any other law.
(Ord. 89-05 §4; Ord. 17-21 §1)

§ 2.64.050. Limitation on Action.

Any act of the Town Center Development Agency shall be considered the act of the urban renewal agency only and shall not be considered an act of the city council, even though membership of both are identical. The Town Center Development Agency shall not exercise any power which, by Charter, requires voter approval.
(Ord. 89-05 §5; Ord. 17-21 §1)

§ 2.64.060. Rules of Procedures.

- A. The agency shall serve with integrity, perform the duties of the position and obey the laws of the federal, state and local governments. This is required to protect the public's confidence in the integrity of their local government's fair and effective operation.
- B. Council groundrules will govern proceedings of the agency where they do not conflict with these rules or statutory provisions.
- C. A violation of the council groundrules shall not be considered a basis for challenging the validity of any agency decision.
- D. An agency member may be subject to a council resolution of censure for misconduct,

nonperformance of duty and failure to obey the laws of the federal, state and local governments. Misconduct includes not honoring the provisions of the council groundrules.

- E. Early recognition of the questioned conduct is encouraged. Progressive counsel may occur with the agency member but is not required prior to passage of a resolution of censure.
(Ord. 10-16 §3)

§ 2.64.070. Advisory Commission Established.

The Town Center Advisory Commission is established. The commission shall be comprised of up to 15 members appointed by the city council. The purpose of the commission is to assist in implementation of the city's duly enacted urban renewal plan(s), to make recommendations to the Town Center Development Agency, and to help inform Tigard's citizens of the content and activities of urban renewal plans.

(Ord. 89-05 §6; Ord. 10-16 §3; Ord. 17-21 §1)

Title 3**REVENUE AND FINANCE**

<p style="text-align: center;">Chapter 3.04</p> IMPREST CASH ACCOUNTS	<p>§ 3.24.030.</p> <p>§ 3.24.040.</p> <p>§ 3.24.050.</p> <p>§ 3.24.060.</p> <p>§ 3.24.070.</p> <p>§ 3.24.080.</p> <p>§ 3.24.090.</p> <p>§ 3.24.100.</p> <p>§ 3.24.110.</p> <p>§ 3.24.120.</p> <p>§ 3.24.130.</p> <p>§ 3.24.140.</p> <p>§ 3.24.150.</p> <p>§ 3.24.160.</p> <p>§ 3.24.170.</p> <p>§ 3.24.180.</p>	<p>Definitions.</p> <p>Charge Imposed.</p> <p>Methodology.</p> <p>Project List.</p> <p>Expenditures.</p> <p>Payment.</p> <p>Installment Payments.</p> <p>Exemptions.</p> <p>Credits.</p> <p>Notice.</p> <p>Accounting.</p> <p>Appeals.</p> <p>Prohibited Connection.</p> <p>Penalty.</p> <p>Severability.</p> <p>Exemption for Accessory Dwelling Units.</p>
<p style="text-align: center;">Chapter 3.08</p> SUBDIVISION LIGHTING TRUST FUND	<p>§ 3.08.010.</p> <p>§ 3.08.020.</p> <p>§ 3.08.030.</p> <p>§ 3.08.040.</p>	<p>§ 3.24.160.</p> <p>§ 3.24.170.</p> <p>§ 3.24.180.</p>
		<p>Chapter 3.28</p> <p>TIGARD URBAN RENEWAL AGENCY FUND</p>
<p style="text-align: center;">Chapter 3.12</p> FEDERAL SHARING TRUST FUND	<p>§ 3.12.010.</p> <p>§ 3.12.020.</p> <p>§ 3.12.030.</p> <p>§ 3.12.040.</p> <p>§ 3.12.050.</p> <p>§ 3.12.060.</p>	<p>§ 3.28.010.</p> <p>§ 3.28.020.</p> <p>§ 3.28.030.</p> <p>§ 3.28.040.</p>
		<p>Chapter 3.32</p> <p>CITY FEES AND CHARGES</p>
<p style="text-align: center;">Chapter 3.24</p> SYSTEM DEVELOPMENT CHARGE PROGRAM	<p>§ 3.32.010.</p> <p>§ 3.32.020.</p> <p>§ 3.32.030.</p> <p>§ 3.32.040.</p> <p>§ 3.32.050.</p> <p>§ 3.32.060.</p> <p>§ 3.32.070.</p>	<p>Definitions.</p> <p>Authority.</p> <p>Method of Determining Rates for Fees and Charges.</p> <p>Administration.</p> <p>Fee Adjustments and Schedules.</p> <p>Failure to Pay Fees and Charges.</p> <p>Exemptions.</p>

§ 3.32.080.	Ratification.	§ 3.50.050.	Determination of Eligibility for Exemption; Notice to County Assessor.
§ 3.32.090.	Recreation Program.		
	Chapter 3.36	§ 3.50.060.	Termination of Exemption.
STORM DRAINAGE PROPRIETARY FUND			
§ 3.36.010.	Definitions.		
§ 3.36.020.	Intent.		
§ 3.36.030.	Charges and Fund Established.	§ 3.60.010.	Definitions.
§ 3.36.040.	Charges—Collection.	§ 3.60.020.	Authority.
§ 3.36.050.	Charges—Use.	§ 3.60.030.	Obligation to Provide Records.
§ 3.36.060.	Determination of Service.	§ 3.60.040.	Confidentiality of Records and Data.
§ 3.36.070.	Rates Established.	§ 3.60.050.	Cost of Audit.
§ 3.36.080.	Expenditure of Funds.	§ 3.60.060.	Interest Owing on Past Due Amounts.
§ 3.36.090.	Payment Required.		
§ 3.36.100.	Recovery of Unpaid Charges.		
§ 3.36.110.	Right of Entry by City Employees.		
§ 3.36.120.	Additional Charges and Responsibilities.		
	Chapter 3.44		
SALE OF SURPLUS REAL PROPERTY			
§ 3.44.005.	Qualification—Classification.	§ 3.65.010.	Short Title.
§ 3.44.010.	Disposal of Substandard Undeveloped Property.	§ 3.65.015.	Purpose.
§ 3.44.015.	Disposal of Standard Undeveloped Property and Developed Property.	§ 3.65.020.	Definitions.
§ 3.44.025.	Broker Selection.	§ 3.65.030.	Tax Imposed.
§ 3.44.030.	Transfer of Property to Urban Renewal Agency.	§ 3.65.040.	Amount and Payment.
	Chapter 3.50		
NON-PROFIT CORPORATION LOW-INCOME HOUSING			
§ 3.50.010.	Definitions.	§ 3.65.050.	Permit Requirements.
§ 3.50.020.	Nonprofit Corporation Low Income Housing; Exemption; Criteria.	§ 3.65.060.	Permit Applications and Issuance.
§ 3.50.040.	Application for Exemption.	§ 3.65.070.	Failure to Secure Permit.
		§ 3.65.080.	Revocation of Permit.
		§ 3.65.090.	Cancellation of Permit.
		§ 3.65.100.	Remedies Cumulative.
		§ 3.65.110.	Payment of Tax and Delinquency.
		§ 3.65.120.	Monthly Statement of Dealer.
		§ 3.65.130.	Failure to File Monthly Statements.
		§ 3.65.140.	Billing Purchasers.
		§ 3.65.150.	Failure to Provide Invoice or Delivery Tag.
		§ 3.65.160.	Transporting Motor Vehicle Fuel in Bulk.

REVENUE AND FINANCE

§ 3.65.170.	Exemption of Export Fuel.	Chapter 3.80
§ 3.65.175.	Sales to Armed Forces Exempted.	MARIJUANA TAX
§ 3.65.190.	Fuel in Vehicle Coming into City Not Taxed.	§ 3.80.010. Purpose.
		§ 3.80.015. Definitions.
§ 3.65.200.	Fuel Sold or Delivered to Dealers.	§ 3.80.020. Tax Imposed.
		§ 3.80.025. Amount and Payment, Deductions.
§ 3.65.210.	Refunds.	§ 3.80.030. Marijuana Retailer Responsible for Payment of Tax.
§ 3.65.220.	Examination and Investigations.	§ 3.80.035. Penalties and Interest.
		§ 3.80.040. Appeal.
§ 3.65.230.	Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax.	§ 3.80.045. Refunds.
		§ 3.80.050. Actions to Collect.
§ 3.65.240.	Examining Books and Accounts of Carrier of Motor Vehicle Fuel.	§ 3.80.055. Violation.
		§ 3.80.060. Confidentiality.
§ 3.65.250.	Records to Be Kept by Dealers.	§ 3.80.065. Audit of Books, Records, or Persons.
		§ 3.80.070. Forms and Regulations.
§ 3.65.260.	Records to Be Kept Three Years.	§ 3.80.075. Intergovernmental Agreement.
§ 3.65.270.	Use of Tax Revenues.	

Chapter 3.75
PARKS AND RECREATION FEE

§ 3.75.010.	Creation and Purpose.	Chapter 3.85
§ 3.75.020.	Definitions.	LOCAL TRANSIENT LODGING TAX
§ 3.75.030.	Administrative Officers Designated.	§ 3.85.010. Purpose.
		§ 3.85.020. Definitions.
§ 3.75.040.	Parks and Recreation Fees Allocated to the Parks Fund.	§ 3.85.030. Tax Imposed.
		§ 3.85.040. Collection.
§ 3.75.050.	Determination of Parks and Recreation Fee.	§ 3.85.050. Provider's Duties.
		§ 3.85.060. Exemptions.
§ 3.75.060.	Determination of Amount, Billing and Collection of Fee.	§ 3.85.070. Registry.
		§ 3.85.080. Returns.
§ 3.75.070.	Waiver of Fees in Case of Vacancy.	§ 3.85.090. Penalties and Interest.
		§ 3.85.100. Deficiencies.
§ 3.75.080.	Administrative Provisions and Appeals.	§ 3.85.110. Redetermination.
		§ 3.85.120. Security.
§ 3.75.090.	Administrative Policies.	§ 3.85.130. Refunds.
		§ 3.85.140. Expenditure of Funds.
§ 3.75.100.	Penalty.	§ 3.85.150. Collection Fee.
		§ 3.85.160. Administration.
§ 3.75.110.	Severability.	§ 3.85.170. Notice.
		§ 3.85.180. Appeals.

§ 3.85.190.	Violations and Penalty.	§ 3.90.060.	Failure to Pay.
§ 3.85.200.	Intergovernmental Agreement.	§ 3.90.070.	Failure to Maintain Units as Affordable.
Chapter 3.90			
CONSTRUCTION EXCISE TAX			
§ 3.90.010.	Purpose.	§ 3.90.100.	Expenditure of Funds.
§ 3.90.020.	Definitions.	§ 3.90.090.	Statement of Entire Value of Improvement Required.
§ 3.90.030.	Tax Imposed.	§ 3.90.110.	Penalties and Interest.
§ 3.90.040.	Administration and Enforcement.	§ 3.90.120.	Enforcement by Civil Action.
§ 3.90.050.	Exemptions.	§ 3.90.130.	Refunds.
			Appeals.

CHAPTER 3.04 IMPREST CASH ACCOUNTS

§ 3.04.010. Designated.

Pursuant to ORS Section 294.465, there is established the following imprest cash accounts for the handling of minor disbursements and making change incident to the operation of the business of the City:

- (1) Imprest cash account of the sewer fund, in an amount not to exceed three hundred dollars, is authorized to be transferred from the sewer fund to the "imprest cash account of the sewer fund."
- (2) Imprest cash account of the general fund, in an amount not to exceed one thousand dollars, is authorized to be transferred from the general fund under the heading "imprest cash account of the general fund."

(Ord. 67-71 §1; Ord. 68-95 §1; Ord. 81-49 §2; Ord. 84-11 ; Ord. 89-09 §1)

§ 3.04.020. Purpose.

The purposes for which each of the foregoing accounts shall be utilized shall include minor disbursements and making change.

(Ord. 67-71 §2)

§ 3.04.030. Expenditures—Prior Approval Required.

The methods for controlling of expenditures and encumbering of moneys in each of the accounts shall conform to established accounting procedures of the City, and the expenditures therefrom shall be subject to rules set forth in the Tigard purchasing manual as adopted by the Council.
(Ord. 67-71 §3; Ord. 89-09 §1)

§ 3.04.040. Sources of Replenishment.

The source for replenishment of the "imprest cash account—sewer fund" shall be the sewer fund.

The source for replenishment of the "imprest cash account of the general fund" shall be the general fund.

(Ord. 67-71 §4; Ord. 89-09 §1)

§ 3.04.050. Expenditures—In Excess of Cash Balance.

No person shall expend or encumber or authorize expenditure or encumbrance of balances from the accounts created in accordance with Section 3.04.010, in excess of the cash balance of that account, or for a purpose for which there is no appropriation or source of reimbursement authorized at that time.

(Ord. 67-71 §5)

§ 3.04.060. Petty Cash Amounts to Be Set Out in a Separate Schedule.

Each petty cash account and the amount thereof may be set out in a separate schedule of such accounts in the budget document. The total amount of all petty cash accounts shall be set forth in the same schedule.

(Ord. 67-71 §6)

CHAPTER 3.08 SUBDIVISION LIGHTING TRUST FUND

§ 3.08.010. Deposit—To Be Made by Subdivider.

In order to defray the actual costs of electrical energy and maintenance of street lighting facilities installed incident to the development of new residential subdivisions in the City and to assure the availability of funds therefor, each owner, subdivider, developer or other party required by Title 17 to install street lighting facilities in new subdivisions, shall pay to the City Recorder at the time of approval of the subdivision plat by the Planning Commission for recording, a sum estimated by the Planning Commission to be sufficient to cover the cost of maintenance and energizing of such lighting facilities for the period beginning with the date that any such lighting facilities are energized and ending twenty-four calendar months later.

(Ord. 69-73 §1)

§ 3.08.020. Established.

There is established a special trust account on the City's records to be entitled "subdivision lighting trust fund" which shall be credited with all deposits of funds received pursuant to Section 3.08.010, individually identified as to each subdivision and contributor. The City Recorder shall further cause to have the funds deposited in an entrusted account at an authorized banking institution within the City and to keep and maintain the account for the purposes defined herein.

The accounting procedures with respect to the entrusted funds shall conform to those usual and customary as established for the City's regular accounts.

In connection with preparation of annual budget estimates for the City, the provisions of ORS Section 294.361(3) and all other applicable provisions of ORS Sections 294.305 et seq. (Local Budget Law) shall be followed.

(Ord. 69-73 §2)

§ 3.08.030. Deposit—Source of expenditures.

There shall be charged against each subdivision deposit and paid therefrom, all expenses howsoever arising for the maintenance and repair of street lighting facilities within the applicable subdivision for which purpose the deposit was made, and there shall be further paid therefrom and charged thereagainst, all costs of energizing the facilities for the period for which the deposit was made as hereinabove set forth.

(Ord. 69-73 §3)

§ 3.08.040. Replenishment and refund provisions.

If within the period of twenty-four months the funds deposited pursuant to the provisions hereof shall become fully or partially depleted to the degree insufficient amount remains available to cover the continued costs during the balance of the twenty-four month period, the City Recorder shall notify the developer or contributor of such fact and request replenishment in a sum estimated to be sufficient to cover the balance of the period. In like manner, if at the expiration of the period for which the funds were deposited there shall remain any unexpended overplus, the same shall be repaid to the source from whom obtained.

The contributor shall be entitled to a statement of account and a showing of the application of the funds deposited in accordance with the provisions hereof.

(Ord. 69-73 §4)

**CHAPTER 3.12
FEDERAL SHARING TRUST FUND**

§ 3.12.010. Establishment.

There is established a special revenue fund of the City of Tigard designated "federal sharing trust fund" for the purpose of conforming to the requirements of Section 103(a) of Public Law 92-512 of the Federal Congress known as the "Revenue Sharing Act."

(Ord. 73-4 §1)

§ 3.12.020. Deposits.

All payments as and when received by the City of Tigard pursuant to the Revenue Sharing Act shall be separately maintained and deposited in the "federal sharing trust fund," together with any increments thereto or interest thereon.

(Ord. 73-4 §2)

§ 3.12.030. Expenditures—Generally.

No obligation against or expenditure from the fund shall be undertaken at any time unless as a condition precedent thereto the requirements of ORS 294.305 to 294.520 (Local Budget Law) have been fully met, with particular respect to budgeting and supplemental budgeting.

(Ord. 73-4 §3)

§ 3.12.040. Expenditures—Limitations.

Obligations against or expenditures from the fund shall conform to the limitations of Section 103(a) of the Revenue Sharing Act in pertinent part providing for priority expenditures as follows:

- (1) Ordinary and necessary maintenance and operating expenses for:
 - (A) Public safety (including law enforcement, fire protection and building code enforcement),
 - (B) Environmental protection (including sewage disposal, sanitation and pollution abatement),
 - (C) Public transportation (including transit systems and streets and roads),
 - (D) Health,
 - (E) Recreation,
 - (F) Libraries,
 - (G) Social services for the poor or aged, and
 - (H) Financial administration;
- (2) Ordinary and necessary capital expenditures authorized by law.
(Ord. 73-4 §4)

§ 3.12.050. Expenditures—Prohibitions.

Pursuant to Section 104 of the Revenue Sharing Act, the use of moneys from the fund either directly or indirectly to obtain federal matching funds by the City of Tigard is expressly prohibited.

(Ord. 71-4 §5)

§ 3.12.060. Records.

The City Recorder is authorized and directed to establish all accounting records needful and necessary in accordance with prescribed procedures to account for all funds received and all obligations and expenditures there against as part of the City's fiscal records, thus to currently maintain at all times proper records of accountability therefor as required by law.

(Ord. 73-4 §6)

CHAPTER 3.24 SYSTEM DEVELOPMENT CHARGE PROGRAM

§ 3.24.010. Purpose.

This chapter is intended to implement the authority provided in ORS 223.297 through 223.314 by adopting and imposing system development charges (SDCs) to pay for the installation, construction, extension, and expansion of the city's water, sanitary sewer, stormwater, park, and transportation systems. The purpose of SDCs is to impose a portion of the cost of capital improvements for these systems upon those developments that create the need for or increase the demands on these systems.

(Ord. 18-06 §1)

§ 3.24.020. System Development Charge.

An SDC is a reimbursement fee, an improvement fee, or a combination thereof imposed on a subject property at the time of increased usage of a capital improvement or connection to a capital improvement. The SDCs created and imposed by this chapter are separate from, and in addition to, any applicable tax, assessment, charge, fee in lieu of assessment, or fee otherwise provided by law or imposed as a condition of development. The SDC Administrative Procedures Guide provides additional detail on implementation of SDCs.

(Ord. 18-06 §1)

§ 3.24.030. Definitions.

For purposes of this chapter, the following definitions apply:

"Accessory dwelling unit (ADU)" means a second or third residential dwelling unit on the same lot as a primary residential dwelling unit, either attached to or detached from the primary unit, and with separate facilities for sleeping, cooking, and sanitation.

"Administrator" means the person, or persons, appointed by the city to manage and implement the SDC program or portions thereof.

"Applicant" means the person who applies for a land use decision or building permit.

"Building official" means the person, or designee, certified by the state and designated as such to administer the state building codes for the city.

"Building permit" means the permit issued by a building official, as required by the State of Oregon Structural Specialty Code Section 105.1 or the Oregon Residential Specialty Code Section 105.1. In addition, "building permit" means a manufactured home installation permit issued by the building official, relating to the placement of manufactured homes in the city.

"Capital improvements" means facilities, real property, or assets used for the following:

1. Water: supply, treatment, or distribution;
2. Sanitary sewer: wastewater collection, transmission, treatment, or disposal;
3. Stormwater: water quality or quantity management, drainage, or flood control;
4. Parks: active or passive parks, open space, or recreational trails; or
5. Transportation.

"City" means the City of Tigard, Oregon.

"Condition of development approval" means any requirement imposed on an applicant by the city or county as part of a land use decision or building permit approval.

"County" means Washington County, Oregon.

"Credit" means the amount by which an applicant may be able to reduce an SDC as provided in this chapter.

"Development" means a building or other land construction, including a physical change in the use of a structure or land, in a manner which increases the demand on or creates the need for new or enlarged capital improvements.

"Improvement fee" means the SDC for costs associated with capital improvements to be constructed.

"Over-capacity" means that portion of a capital improvement that is built larger or with greater capacity than is necessary to serve the development or to mitigate for system impacts attributable to the development.

"Previous use" means the most intensive use conducted at the subject property within the past 18 months prior to the date of application for a building permit, or land use decision if no building permit is required. Where the subject property was used simultaneously for several different uses (mixed-use) then all of the specific use categories will be considered for purposes of this chapter. Where the previous use was composed of a primary use with one or more ancillary uses that supported the primary use and were owned and operated in common, the primary use will be deemed to be the sole previous use of the subject property for purposes of this chapter.

"Project list" means the list adopted by the city pursuant to Section 3.24.060.

"Proposed use" means the use proposed by the applicant for the subject property. Where the applicant proposes several different uses (mixed-use) then all of the specific use categories will be considered for purposes of this chapter. Where the proposed use is composed of a primary use with one or more ancillary uses that support the primary proposed use and are owned and operated in common, the primary use will be deemed to be the sole proposed use of the subject property for purposes of this chapter.

"Qualified public improvement" means any capital improvement that increases the capacity of the city's system and is:

1. Required as a condition of development approval;
2. Identified as a need and included on the project list; and
3. Not located on or contiguous to the subject property; or
4. Located contiguous to or in whole or in part on the subject property and, in the opinion of the administrator, is required to be built larger or with greater capacity (over-capacity) than is necessary to serve the development of the subject property or to mitigate for system impacts attributable to the development of the subject property. There is a rebuttable presumption that improvements built to the city's minimum standards are required to serve the development and to mitigate for system impacts attributable to the development.

"Regulated affordable housing" means housing that:

1. Is rented or sold to households earning 80% or less of the median family income as

defined annually by Housing and Urban Development (HUD) for the Portland-Vancouver Metropolitan Statistical Area (MSA); and

2. Is subject to a local, state, or federal compliance agreement, contract, restrictive covenant, or similar instrument that guarantees that the housing will continue to be rented or sold to qualifying households for a minimum of 20 years from the date of occupancy.

"Reimbursement fee" means the SDC for costs associated with capital improvements already constructed, or under construction when the fee is established, for which the city determines that capacity exists.

"Residential dwelling unit" means a building or a portion of a building consisting of one or more rooms that includes sleeping, cooking, and plumbing facilities and are arranged and designed as permanent living quarters for one family or household.

"SDC administrative procedures guide" means the administrative rules adopted by the city for the implementation of this chapter.

"Short-term rental" means rental of a residential dwelling unit, or any portion thereof, to overnight guests for fewer than 30 consecutive days.

"Temporary water use" means a water service connection to the city water system for limited periods of time or duration that has minimal, if any, permanent impact on system capacity, such as service to temporary buildings, temporary irrigation systems, or special events.

(Ord. 18-06 §1; Ord. 18-25 §1; Ord. 19-10 §1; Ord. 23-05 §1)

§ 3.24.040. Charge Imposed.

- A. SDCs may be established and revised by resolution of the City Council. The resolution must include the amount of the charge; the type of permit to which the charge applies; the methodology used to set the amount of the charge; and, if the charge applies to a geographic area smaller than the entire city, the geographic area subject to the charge.
- B. Unless otherwise exempted by the provisions of this chapter or any other applicable local or state law, an SDC is hereby imposed upon all development within the city or outside the city boundaries pursuant to an intergovernmental agreement. SDCs are imposed where development makes a connection to the city's systems or where development increases the demand on the city's systems.
- C. Any fee imposed or required to be paid, assessed, or collected as part of a local improvement district or in lieu of a local improvement district assessment, or the cost of complying with requirements or conditions imposed by a building permit or land use decision, are separate from and in addition to SDCs and may not be used as a credit against any SDC.

(Ord. 18-06 §1)

§ 3.24.050. Methodology.

- A. The city will adopt an SDC methodology by resolution of the City Council for each SDC imposed. The methodology establishes the improvement fee or reimbursement fee and the method for calculating a development's proportional share of the city's capital improvement costs.
- B. The methodology used to establish the reimbursement fee must be based on ratemaking

principles employed to finance publicly-owned capital improvements; prior contributions by existing system users; gifts or grants from federal or state government or private persons; the value of unused capacity available to future system users; the cost of existing capital improvements; or other relevant factors identified by the City Council. Future system users will contribute an equitable share of the cost of existing capital improvements.

- C. The methodology used to establish the improvement fee must be based on the projected cost of capital improvements identified in the project list adopted pursuant to Section 3.24.060 that are needed to increase the capacity of the system to which the fee is related and for which the need for increased system capacity will be required to serve the demands placed on the system by future system users.
- D. The methodology may also provide for periodic indexing of system development charges for inflation, as long as the index is:
 - 1. A relevant measurement of the average change in prices or costs over an identified time period for materials, labor, real property or a combination of the three;
 - 2. Published by a recognized organization or agency that produces the index or data source for reasons that are independent of the system development charge methodology; and
 - 3. Incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution or order.

(Ord. 18-06 §1)

§ 3.24.060. Project List.

- A. The project list adopted by City Council must:
 - 1. List the capital improvement projects that may be funded with improvement fees; and
 - 2. List the estimated cost, percentage of costs eligible for improvement fee funding, and timing of construction for each capital improvement project.
- B. The administrator may, at any time, amend the project list, including adding or removing projects or changing the estimated cost, percentage of cost eligible for improvement fee funding, or timing of construction for each capital improvement project on the list. Amendments must be consistent with the city's adopted goals, policies, and system master plans or as otherwise determined by the administrator to be necessary for the public's health, safety, and welfare.
- C. If an SDC will be increased by a proposed project list amendment to include a capacity-increasing capital improvement, the city must provide notice of the proposed amendment to the persons who have requested written notice under Section 3.24.120 at least 30 days prior to the adoption of the proposed amendment. The city will hold a public hearing if a written request for a hearing on the proposed amendment is received at least seven days prior to the date the proposed amendment is scheduled for adoption.

(Ord. 18-06 §1)

§ 3.24.070. Expenditures.

- A. Reimbursement Fees. Reimbursement fees may be spent only on capital improvements to

which the fees are related, including expenditures relating to repayment of indebtedness.

B. Improvement Fees.

1. Improvement fees may be spent only on capacity-increasing capital improvements to which the fees are related, including expenditures relating to repayment of indebtedness. A capital improvement increases capacity when it increases the level of performance or service provided by an existing facility or provides a new facility. The portion of the improvement funded by the improvement fee must be related to the need for increased capacity to provide service for future users.
2. A capital improvement funded in whole or in part by an improvement fee must be included on the project list adopted by the city pursuant to Section 3.24.060.
3. Notwithstanding subsections B.1 and B.2 of this section, SDCs may be spent on the costs of complying with the provisions of this chapter, including the costs of developing SDC methodologies and providing an annual accounting of SDC funds.

C. SDCs may not be spent on the following:

1. Costs associated with the construction of administrative office facilities that are more than an incidental part of a capital improvement; or
2. Costs associated with the operation or routine maintenance of capital improvements.

(Ord. 18-06 §1)

§ 3.24.080. Payment.

A. SDCs are calculated and are due and payable as follows:

1. Calculation. SDCs are calculated based on the fees in effect at the time of submittal of the complete building or plumbing permit application to which the fees relate. If a building or plumbing permit is not required and a land use decision is required, SDCs are calculated based on the fees in effect at the time of submittal of the complete land use application to which the fees relate.
 2. Due and Payable. Water SDCs are due and payable upon purchase of a water meter. All other SDCs are due and payable prior to final inspection or the issuance of an occupancy permit, whichever is the city's final action, on the building or plumbing permit to which the fees relate. If a building or plumbing permit is not required and a land use decision is required, all other SDCs are due and payable upon issuance of the land use decision to which the fees relate.
- B. The city may not issue a required building permit or allow a connection to the city's systems until all applicable SDCs have been paid in full; exemption has been granted pursuant to Section 3.24.100; or installment payment arrangements have been made pursuant to Section 3.24.090.
- C. If development commences or a connection is made to the city's water, sanitary sewer, or stormwater systems without the required building permit or land use approval, all applicable SDCs will be immediately due and payable.

(Ord. 18-06 §1; Ord. 20-02 §1; Ord. 21-09 §1; Ord. 23-05 §1)

§ 3.24.090. Installment Payments.

- A. When an SDC is due and payable, the applicant may apply for payment in 20 semi-annual installments, secured by a lien on the property upon which the development is to occur or to which the utility connection is to be made, to include the SDC along with the following:
 - 1. Interest on the obligation at the rate stated in the city's master fees and charges. If no rate is set, then the interest on the obligation will default to prime rate as published by the Wall Street Journal the day of application plus four percent; and
 - 2. Any and all costs, as determined by the administrator, incurred by the city in establishing payment schedules and administering the collections process.
- B. An applicant requesting installment payments has the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the property and that the property interest of the applicant is adequate to secure payment of the lien.
- C. The administrator will record the lien with the county as a lien on the property for the amount of the SDC together with the costs in subsections A.1 and A.2 of this section. The lien is enforceable in the manner provided in ORS Chapter 223 and is superior to all other liens pursuant to ORS 223.230.

(Ord. 18-06 §1)

§ 3.24.100. Exemptions.

The following types of development are exempt from payment of SDCs:

- A. Structures and uses existing on or before the effective date of the resolution that sets the amount of an SDC, except for connections to the city's water or sanitary sewer systems made after such date.
- B. Additions to a residential dwelling unit that does not constitute the addition of a dwelling unit, as defined by the building code.
- C. Alterations, additions, replacements or changes in use that do not increase the development's use of a capital improvement.
- D. Regulated affordable housing, from city transportation and park SDCs only. Up to one non-regulated dwelling unit may be included under these provisions, provided the development includes a minimum of 20 qualifying regulated dwelling units and the non-regulated unit is for the exclusive use of a full-time, on-site manager supporting the operations of the regulated affordable housing program.
- E. Temporary water use, from city water SDCs only.
- F. Accessory dwelling units of 1,000 square feet or less that comply with TMC 3.24.180, from city transportation and park SDCs only.

(Ord. 18-06 §1; Ord. 18-25 §2; Ord. 19-10 §1; Ord. 23-05 §1)

§ 3.24.110. Credits.

- A. Reimbursement Fee Credits. No credits may be given for reimbursement fees.
- B. Improvement Fee Credits. The following activities are eligible for improvement fee credits:

1. Change of Use. Credits will be issued in an amount equal to the existing SDC attributable to the previous use when a change of use occurs. The credit so computed may not exceed the calculated SDC. The applicant is not entitled to a refund if an SDC for the proposed use is less than the same SDC attributable to the previous use. Previous use credits will be automatically calculated and applied by the administrator.
 2. Property Donation. Credits will be issued in an amount up to the county market value of real property donated to the city for a future park improvement that is on the project list. In lieu of county market value, the city may require a written appraisal as the basis for determining value at the discretion of the administrator. Real property donations become eligible for credits upon recording of the signed deed with the county.
 3. Capital Improvement Construction. Credits will be issued for certain capital improvements as described in subsection E of this section.
- C. General Provisions for Improvement Fee Credits. Improvement fee credits are subject to the following:
1. Credits must be used within 10 years from the date the credit is issued. Credits expire after 10 years without the need for any further action by the city.
 2. Credits may be transferable from one development to another.
 3. Credits may only be used for obligations relating to the specific SDC for which the credit was issued.
- D. Improvement Fee Credits for Capital Improvements. In addition to the provisions in subsection C, improvement fee credits for capital improvements are subject to the following:
1. Credits will only be issued for an eligible bonded or completed capital improvement, or for a fee paid in lieu of construction of an eligible capital improvement, for the specific SDC to which the improvement relates. A completed capital improvement becomes eligible for credits upon final inspection and conditional acceptance by the city, regardless of any ongoing maintenance needs or agreements associated with the improvement.
 2. Credit requests must be filed in writing with the administrator on forms provided by the city no later than 60 days after acceptance of the improvement by the city, with the exception of change of use credits as described in subsection B.1.
 3. When construction of a capital improvement gives rise to a credit amount greater than the improvement fee that would otherwise be levied against the development, the excess credit may be applied against improvement fees that accrue in subsequent phases of the development, if any.
- E. Eligible Capital Improvements. The following types of capital improvements are eligible for improvement fee credits:
1. Qualified Public Improvement. Credits for a qualified public improvement, other than a park improvement, will be issued for the actual cost of the improvement as approved by the administrator. Credits for a qualified public improvement will be issued only

for the cost of that portion of the improvement that exceeds the city's minimum standard facility size or capacity needed to serve the development. The applicant has the burden of demonstrating that a particular improvement is a qualified public improvement.

2. Park Improvement. Credits for a park improvement on the project list, regardless of whether the improvement is considered a qualified public improvement, will be issued for up to the full cost of the improvement. Credits are limited to costs approved by the administrator based on park size and features.
 3. Bicycle and Pedestrian Improvement. Credits for a bicycle or pedestrian improvement on the project list, regardless of whether the improvement is considered a qualified public improvement, will be issued for up to the full cost of the improvement. Credits are limited to costs approved by the administrator based on facility size and materials.
- F. Relationship Between Transportation Development Tax and SDC Credits. For any transportation capital improvement that is eligible for credits from both county Transportation Development Tax (TDT) and city transportation SDC, the amount of SDC credit issued will be reduced by the amount of TDT credit issued.
- G. Relationship Between Citywide and Overlay SDC Credits. For any transportation capital improvement that is eligible for credits from both a citywide and overlay SDC, the amount of overlay SDC credit issued will be reduced by the amount of citywide SDC credit issued.
- H. In addition to subsection E.1, credits will be issued in an amount of up to half the cost of any non-qualified public improvement street elements of River Terrace Boulevard. Credits are limited to costs approved by the administrator based on the adopted River Terrace Boulevard cross section.

(Ord. 18-06 §1)

§ 3.24.120. Notice.

- A. The city will maintain a list of persons who have made a written request for notification prior to adoption or amendment of any SDC or SDC methodology. Written notice will be mailed to persons on the list at least 90 days prior to the first hearing to establish or modify an SDC or SDC methodology. The methodology supporting the adoption or amendment of an SDC must be available at least 60 days prior to the first hearing on the proposal. The failure of a person on the list to receive a notice that was mailed does not invalidate the city's subsequent action.
- B. The city may periodically remove persons from the notification list. At least 30 days prior to removing a person from the list, the city must notify the person that a new written request for notification is required if the person wishes to remain on the notification list.
- C. A change in the amount of a reimbursement fee or improvement fee is not an amendment of the SDC or SDC methodology if the change in amount is based on a change in cost of materials, labor or real property as set forth on the project list adopted pursuant to Section 3.24.060 or the periodic application of one or more specific cost indices published by a recognized organization or agency and is incorporated as part of the established methodology or identified and adopted in a separate ordinance, resolution, or order.

(Ord. 18-06 §1)

§ 3.24.130. Accounting.

- A. The city will utilize standard accounting practices to segregate all SDCs into separate capital improvement system funds, and keep such funds separate from all other city funds.
- B. The city will provide an annual accounting of all SDCs funds showing the total amount of all SDC revenues collected for each type of system and expended for each capital improvement or other costs allowed by this chapter.

(Ord. 18-06 §1)

§ 3.24.140. Appeals.

A person may file an appeal in writing for the following actions or decisions:

- A. Appeal of an Expenditure. Appeal of an SDC expenditure must be filed with the city within two years of the date of the alleged improper expenditure. The City Council will determine whether the expenditure was in accordance with this chapter and the provisions of ORS 223.297 to 223.314. If the City Council determines that there was an improper SDC expenditure, the City Council will direct that a sum equal to the misspent amount be deposited to the account or fund from which it was spent within one year of the council's decision.
- B. Appeal of an SDC Methodology. Appeal of an SDC methodology adopted by the City Council pursuant to Section 3.24.050 must be filed no later than 60 days after the date of adoption and must be contested according to the procedure set forth in ORS 34.010 to 34.100.
- C. Appeal of Other Decisions. Appeals of other decisions, including calculation of an SDC charge or credit, must be filed with the city within 30 days of the administrator's decision that is being contested. The City Council decides all such appeals.

(Ord. 18-06 §1)

§ 3.24.150. Prohibited Connection.

No person may connect to the water, sanitary sewer, or stormwater systems of the city unless the applicable SDC has been paid.

(Ord. 18-06 §1)

§ 3.24.160. Penalty.

Violation of this chapter is a Class A infraction punishable by a fine not to exceed \$500.00.

(Ord. 18-06 §1)

§ 3.24.170. Severability.

The provisions of this chapter are severable, and it is the intention to confer the whole or any part of the powers herein provided for. If any clause, section, or provision of this chapter is declared unconstitutional or invalid for any reason or cause, the remaining portion of this chapter will be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein. It is hereby declared to be the City Council's intent that this chapter would have been adopted had such an unconstitutional provision not been included herein.

(Ord. 18-06 §1)

§ 3.24.180. Exemption for Accessory Dwelling Units.

- A. An ADU receiving an exemption pursuant to TMC 3.24.100.F may not be used as a short-term rental for a period of 10 years following approval of final inspection of the building permit for the ADU. A restrictive covenant must be recorded and submitted to the city prior to building permit issuance.
- B. TMC 3.24.100.F is repealed on July 31, 2027. Restrictive covenants recorded prior to this date will remain in full force and effect.

(Ord. 19-10 §1; Ord. 23-05 §1)

**CHAPTER 3.28
TIGARD URBAN RENEWAL AGENCY FUND**

§ 3.28.010. Establishment.

Finding that ORS 457.440 requires a special revenue fund be created to be used to pay the principal and interest on indebtedness incurred by the agency to finance or refinance the carrying out of the urban renewal plan, the Tigard City Council establishes a special revenue fund of the City of Tigard designated "Tigard Urban Renewal Agency Fund," which short title shall be "TURA Fund."

(Ord. 82-83 §1)

§ 3.28.020. Deposits.

The Tigard City Council further finds that all payments as and when received by the city under ORS 457.420 through 457.450 shall be separately maintained and deposited in the Tigard Urban Renewal Agency Fund together with any increments thereto or interest thereon.

(Ord. 82-83 §2)

§ 3.28.030. Expenditures.

Obligations against or expenditures from the fund shall conform to the purpose as stated in the city's duly enacted urban renewal plan(s) and ORS Chapter 457.

(Ord. 82-83 §3; Ord. 17-21 §1)

§ 3.28.040. Records.

The finance director is authorized and directed to establish all accounting records necessary or convenient in accordance with prescribed procedures to account for all funds received and all obligations and expenditures there against as part of the city's fiscal records, thus to maintain currently at all times proper records of accountability thereof as required by law.

(Ord. 82-83 §4)

CHAPTER 3.32 CITY FEES AND CHARGES

§ 3.32.010. Definitions.

"Fees and charges" means the following:

1. Fees and charges established for city services provided under this code;
2. Fees and charges for the dedication and vacation of streets and other public areas within the city;
3. Any other fee or charge established by the council.
(Ord. 82-72 §1; Ord. 16-09 §1; Ord. 19-05 §1)

§ 3.32.020. Authority.

The Tigard City Council has the authority to review and adopt by resolution rates for fees and charges reasonably related to the city's cost of service. The city manager may set interim fees and charges pending adoption of a city council resolution.

(Ord. 82-72 §2; Ord. 02-06 ; Ord. 16-09 §1; Ord. 19-05 §1)

§ 3.32.030. Method of Determining Rates for Fees and Charges.

Rates will be based upon the reasonably determined costs for service and upon estimates from the current or proposed municipal budget for the following categories, as applicable:

1. Materials and services;
2. Capital outlay;
3. Indirect costs;
4. Depreciation costs; and
5. Personnel costs.
(Ord. 82-72 §3; Ord. 16-09 §1; Ord. 19-05 §1)

§ 3.32.040. Administration.

The city finance director, or designee, is authorized to require a specific type of payment, in the event of a prior history of nonpayment, returned checks, or incidence of delayed, reduced or unpaid fees and charges. For applications which are subsequently withdrawn, the finance director, upon recommendation of the department head, may refund any or all of the fee amount not necessary to recover city costs incurred through the date of withdrawal.

(Ord. 82-72 §4; Ord. 16-09 §1; Ord. 19-05 §1)

§ 3.32.050. Fee Adjustments and Schedules.

After January 1, adjustments in the rate of fees and charges will be reviewed by the council at least annually, on or before July 1st of any year. The council may consider the following in adjustments to fees and charges: (1) the West Consumer Price Index; (2) the total wage increase in relevant union contracts; (3) costs for services analyses; (4) council policy directives, and (5)

the provisions of Section 3.32.030.

(Ord. 82-72 §5; Ord. 16-09 §1; Ord. 19-05 §1)

§ 3.32.060. Failure to Pay Fees and Charges.

- A. All persons submitting applications or otherwise utilizing services or facilities of the city are required to pay the appropriate fee or charge imposed, unless waived pursuant to TMC 3.32.070.
- B. If the fee or charge for an application is governed by the provisions of this chapter, failure to pay the same in full prevents the submission of such application. If the city erroneously accepts an application, the city finance director will give notice to the applicant of the balance due, which must be paid within 10 days of the giving of such notice. The finance director may waive the penalty if the failure to pay the full fee or charge was not the fault of the applicant. An aggrieved applicant may appeal the penalty decision of the director to the council. If the fee or charge is unpaid after the 10-day period has expired, the application will be considered withdrawn. Where action or work for which any permit is required under city code is started prior to obtaining said permit, the fees specified will be doubled.
- C. For all other fees and charges subject to this chapter and not involving an application, the city finance director will give notice of delinquency in writing, if a fee or charge is unpaid. Such fee or charge must be paid within 10 days of the sending of such notice and, in addition, a delinquency fee in an amount to be established by resolution of council. If the fee or charge is unpaid at the end of the 10-day notification period, the initial amount of the fee will be doubled and the difference deemed a penalty.

(Ord. 82-72 §6; Ord. 16-09 §1; Ord. 19-05 §1)

§ 3.32.070. Exemptions.

The city is authorized to waive or exempt the following fees or charges, in an amount not to exceed \$300, if a party requests such a waiver in writing and the city determines that the requester has demonstrated a need for the waiver.

- A. Rental fees for the use of a city facility.
- B. Parks and recreation fees.
- C. Temporary sign permit fees.
- D. Building permit fees, but not including trade permits.

The waiver or exemption does not excuse the requester from compliance with other requirements of this code. Denials of waiver requests may be made to city council.

(Ord. 82-72 §7; Ord. 16-09 §1; Ord. 19-05 §1)

§ 3.32.080. Ratification.

The council determines that fees previously set by resolutions of the council were set to recover cost and are hereby ratified pursuant to the ordinance codified in this chapter and will remain in effect until superseded pursuant to the ordinance codified in this chapter.

(Ord. 82-72 §8; Ord. 16-09 §1; Ord. 19-05 §1)

§ 3.32.090. Recreation Program.

For purposes of the public works department recreation program, city council delegates its authority to adopt rates and charges for recreation programs and sponsorships, pursuant to Section 3.32.020, to the director of public works.

(Ord. 16-09 §1; Ord. 19-05 §1)

CHAPTER 3.36 STORM DRAINAGE PROPRIETARY FUND

§ 3.36.010. Definitions.

As used in this chapter, except where the context otherwise requires:

"Dwelling unit" (DU) means one or more rooms with bathroom and kitchen facilities designed for occupancy by one family such as detached, townhouses, condominiums, zero lot-line, etc., where the units are sold and deeded as single-family units.

"Multiple dwelling unit" (MDU) means a building or facility consisting of more than one dwelling unit, each such unit consisting of one or more rooms with bathroom and kitchen facilities designed for occupancy by one family.

"Mobile home court" means two or more spaces on the same parcel and occupied by mobile homes.

"Commercial unit" means any building or facility used other than as a dwelling unit or for industrial purposes and which has not been converted to equivalent dwelling units.

"Equivalent Service Unit" (ESU) means a residential or nonresidential configuration estimated to place approximate equal demand on the City's storm drainage system as a single family dwelling unit. One ESU shall be equal to twenty-five hundred square feet of impervious surface.

"Open drainageway" means a natural or man-made path which has the specific function of transmitting natural stream water or storm runoff water from a point of higher elevation to a point of lower elevation.

"Impervious surfaces" are those hard surface areas located upon real property which either prevent or retard saturation of water into the land surface, as existed under natural conditions pre-existent to development, or cause water to run off the land surface in greater quantities or at an increased rate of flow from that present under natural conditions pre-existent to development. Common impervious surfaces include, but are not limited to, rooftops, concrete or asphalt sidewalks, walkways, patio areas, driveways, parking lots or storage areas and graveled, oiled, macadam or other surfaces which similarly impact the natural saturation or runoff patterns which existed prior to development.

"Improved premises" means any area which has been altered such that the runoff from the site is greater than that which could historically have been expected. Such a condition shall be determined by the City Engineer.

(Ord. 82-71 §1; Ord. 83-21 §1)

§ 3.36.020. Intent.

Pursuant to the general laws of the state of Oregon and the powers granted in the Charter of the City of Tigard, the Council of said City does declare its intention to acquire, own, construct, equip, operate and maintain within and without the city limits of the City of Tigard, Oregon, open drainageways, underground storm drains, equipment and appurtenances necessary, useful or convenient for a complete storm drainage system; and also including maintenance, extension and reconstruction of the present storm drainage system of the City.

(Ord. 82-71 §2)

§ 3.36.030. Charges and Fund Established.

There is established and imposed upon all premises which have been improved within the City of Tigard just and equitable charges for storm drainage service or subsequent service maintenance, operation and extension; and to establish a storm drainage proprietary fund for the foregoing purposes.

(Ord. 82-71 §3; Ord. 83-35 §2)

§ 3.36.040. Charges—Collection.

The charges may be collected with the monthly sanitary sewer bill for those connected to sewer or billed alone as storm drainage charge for those users not connected to or not otherwise charged for sanitary sewer.

(Ord. 82-71 §4)

§ 3.36.050. Charges—Use.

Such charges shall be paid by those liable therefor and placed in a storm drainage fund into which all of the charges so collected shall be deposited and kept as a fund to be used only for the purposes aforesaid.

(Ord. 82-71 §5)

§ 3.36.060. Determination of Service.

The City Council determines that property not used for single-family dwelling purposes is furnished service in proportion to the amount of the property's impervious surface, and that an equivalent service unit is adopted based upon the average impervious surface of a random sample of single-family lots within the Tigard area.

(Ord. 82-71 §6)

§ 3.36.070. Rates Established.

All rates shall be set by resolution of the City Council.

(Ord. 82-71 §7; Ord. 02-05)

§ 3.36.080. Expenditure of Funds.

The City shall develop and adopt policies, standards, and financial incentives to promote, regulate and administer the City's Master Drainage Plan. The Council shall provide, by resolution, for a method of expenditure of funds collected pursuant to Section 3.36.030 of this chapter so that those service charge funds are expended in proportion to an areas contribution to storm drainage requirements.

(Ord. 82-71 §8)

§ 3.36.090. Payment Required.

Every person subject to a charge provided herein shall pay the same, when due, to the City of Tigard.

(Ord. 82-71 §9)

§ 3.36.100. Recovery of Unpaid Charges.

Any charge due hereunder which shall not be paid when due may be recovered in an action at law by the City of Tigard.

(Ord. 82-71 §10)

§ 3.36.110. Right of Entry by City Employees.

Subject to constitutional limitations, the employees of the City shall at all reasonable times have access to any premises served by the City for inspection, repair or the enforcement of the provisions of this chapter.

(Ord. 82-71 §11)

§ 3.36.120. Additional Charges and Responsibilities.

1. As provided in ORS 454.225, when storm drainage charges are not paid when due, the amounts thereof together with interest at the statutory rate from the due date shall be certified to the assessor of the appropriate county for collection.
2. The liability for all accounts billed for storm drainage only shall be that of the owner of the property.
3. The City Recorder shall take any action necessary, under appropriate statutes, to enforce delinquent storm drainage charges as a lien against the property.
4. The charge for fifteen days or less of service upon new account or upon the closing of an account shall be one-half the applicable monthly charge.

(Ord. 82-71 §13)

CHAPTER 3.44 SALE OF SURPLUS REAL PROPERTY

§ 3.44.005. Qualification—Classification.

Real property qualifying for the procedure established in this chapter is classified as follows:

- A. Substandard Undeveloped Property. Parcels with no structures thereon which are not of minimum buildable size for the zone in which located, and parcels that do not meet the city's existing development code.
 - B. Standard Undeveloped Property. Parcels with no structures thereon which are of minimum or greater buildable size for the zone in which located.
 - C. Developed Property. Parcels of any size with structures thereon.
 - D. Special-Case Property. Parcels that, notwithstanding subsections A, B and C of this section, were acquired by the city for capital improvement as defined by this code and were purchased subject to an agreement for the manner in which any surplus would be disposed.
- (Ord. 87-48 §1; Ord. 03-05)

§ 3.44.010. Disposal of Substandard Undeveloped Property.

- A. Whenever a particular parcel or parcels is proposed for sale by the city, or purchase inquiry is made, and the property is classified as substandard undeveloped property, the matter shall be set on the regular council agenda, but no public hearing is required. Except as otherwise provided in this section, notice of the agenda item shall be given to all property owners within 250 feet of the parcel and to any parties who have inquired about the purchase. If the city has issued a request for proposal seeking purchasers of the property and provided the request for proposal to property owners within 250 feet and to those who have inquired about purchasing the property, notice need only be provided to those who have submitted a proposal. After discussion of the agenda item, the council shall determine whether it will offer the property for sale.
 - B. If the city council decides to sell the property, it will direct the city manager or designee to take further action to sell the property. The city council may authorize the city manager or designee to publicize as appropriate, determine the existence of interested prospective purchasers, and negotiate for the sale of the property. Nothing in this section shall preclude the city manager or designee from taking preliminary actions, including publicizing a possible sale, determining the existence of interested prospective purchasers, and issuing a request for proposals prior to the city council's decision, so long as the city does not enter into a binding agreement without city council authorization.
 - C. The city council shall have the final authority to approve or disapprove the final terms of the sale. The city council may pre-approve terms and the agreement form at the meeting at which it determines to sell the property. If the city council does not pre-approve terms and the agreement form at its initial meeting or if alternate terms or agreement form are proposed, the city council shall at a later regularly scheduled council meeting consider approval of the terms and agreement form.
- (Ord. 87-48 §2; Ord. 94-06 ; Ord. 01-09)

§ 3.44.015. Disposal of Standard Undeveloped Property and Developed Property.

- A. Except as provided in Section 3.44.030 of this chapter, whenever a particular parcel or parcels is proposed for sale by the city or a purchase inquiry is made and the property is classified as standard undeveloped property or developed property, the matter shall be set for a hearing before the council.
- B. Notice of said hearing shall be published once in a newspaper of general circulation in the city at least five days prior to the hearing and shall describe the property proposed for sale.
- C. Prior to the sale of a parcel under this section, an appraisal of the property shall be conducted. At the discretion of the council, such an appraisal may be ordered prior to or after the hearing. The appraisal may be made available to the public at the hearing at the discretion of the council.
- D. Public testimony shall be solicited at the hearing to determine if a sale of any parcel is in the public interest.
- E. After the hearing, the council shall determine whether it will offer the property for sale and what the minimum acceptable terms shall be.
- F. If an offer to sell is authorized by the council, a notice soliciting sealed bids shall be published at least once in a newspaper of general circulation in the city at least two weeks prior to the bid deadline date. The notice shall describe the property to be sold, the minimum acceptable terms of sale, the person designated to receive bids, the last date bids will be received, and the date, time and place that bids will be opened.
- G. If one or more bids are received at or above the minimum acceptable terms, the highest bid shall be accepted and the city manager or designee shall complete the sale.
- H. If no acceptable bids are received on a particular parcel: (1) the council may alter or keep the same minimum terms as established under subsection E of this section and direct staff to hold another sale; or (2) the council may alter or keep the same minimum terms established under subsection E of this section and list the property for six months with a local real estate broker on a multiple listing basis. Brokers shall be selected in accordance with the criteria found at Section 3.44.025 of this chapter. A listing may be renewed for an additional one six-month period.
- I. After expiration of the period set out in subsection H of this section, the property shall be removed from the market. Any decision to sell a piece of property once it has been removed from the market shall require that the entire procedure set forth in this chapter be repeated. The council may, however, decide whether or not an additional appraisal is necessary.

(Ord. 87-48 §3; Ord. 94-06 ; Ord. 03-08 ; Ord. 14-13 §1)

§ 3.44.025. Broker Selection.

Notwithstanding any administrative rule to the contrary, the selection of a real estate broker shall be in accordance with the following procedures:

- A. The city shall publish notice in a newspaper of general circulation in the City of Tigard inviting proposals for the sale of the real property. The notice shall be published at least one week prior to the date on which proposals are due.
- B. The broker's proposal shall be in writing and it shall address the selection criteria set forth in subsection C of this section.

- C. The city manager or designee shall consider the following factors in the selection of a broker:
1. The broker's record in selling the type of real property being offered by the city for sale and the broker's familiarity with Tigard-area market values;
 2. The broker's proposed marketing plan and timelines: signs, advertising, direct mail and/or other methods;
 3. The amount of the broker's commission; and
 4. Other factors which were stated in the notice of the invitation to submit a proposal.
- (Ord. 85-09 §3; Ord. 94-06 ; Ord. 03-08)

§ 3.44.030. Transfer of Property to Urban Renewal Agency.

- A. The council may authorize transfer of real property to an urban renewal agency established by the council pursuant to ORS Chapter 457 on such terms and conditions as the council deems appropriate provided that the council finds that:
1. Transfer to the urban renewal agency for redevelopment or other purpose is consistent with, and will further the goals and objectives of, the adopted urban renewal plan for the agency;
 2. The property is not needed for public use by the city or the public interest would be furthered by such transfer; and
 3. Transfer of the property is otherwise permitted by law.
- B. Transfer may be with or without compensation unless the property was acquired with funds that legally must be reimbursed or as otherwise restricted by law.
- C. A proposed transfer under this section shall be placed on regular council agenda.
- (Ord. 14-13 §2)

**CHAPTER 3.50
NON-PROFIT CORPORATION LOW-INCOME HOUSING**

§ 3.50.010. Definitions.

"Governing body" means the City of Tigard City Council.

"Low-income" means:

1. For the initial year a person occupies property for which an application for exemption is filed under this chapter, income at or below 60% of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development; and
2. For every subsequent consecutive year that the person occupies the property, income at or below 80% of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development.

(Ord. 96-34 ; Ord. 19-17 §1)

§ 3.50.020. Nonprofit Corporation Low Income Housing; Exemption; Criteria.

- A. Property that meets all of the following criteria will be exempt from taxation as provided in this section.
 1. The property is owned or being purchased by a corporation described in Section 501(c)(3) or (4) of the Internal Revenue Code that is exempt from income taxation under Section 501(a) of the Internal Revenue Code.
 2. Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary or educational purposes or to the State of Oregon.
 3. The property is:
 - a. Occupied by low income persons; or
 - b. Held for the purpose of future development as low-income housing.
 4. The property or portion of the property receiving the exemption, is actually and exclusively used for the purposes described in Section 501(c)(3) or (4) of the Internal Revenue Code.
 5. The exemption has been approved as provided in Section 3.50.050.
- B. For the purposes of subsection (1) of this section, a corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:
 1. The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or
 2. The rent payable by the corporation has been established to reflect the savings

resulting from the exemption from taxation.

- C. A partnership will be treated the same as a corporation to which this section applies if the corporation is:
 - 1. A general partner of the partnership; and
 - 2. Responsible for the day to day operation of the property that is the subject of the exemption.

(Ord. 96-34 ; Ord. 19-17 §1)

§ 3.50.040. Application for Exemption.

- A. To qualify for the exemption provided by Section 3.50.020, the corporation must file an application for exemption with the governing body for each assessment year the corporation wants the exemption. The application must be filed on or before March 1 of the assessment year for which the exemption is applied, except that when the property designated is acquired after March 1 and before July 1, the claim for that year must be filed within 30 days after the date of acquisition. The application must include the following information:
 - 1. The applicant's name, address, and telephone number;
 - 2. The assessor's account number for each site;
 - 3. The number of units and the exempted amount of each property being applied for under this chapter;
 - 4. A description of the property for which the exemption is requested;
 - 5. A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
 - 6. A certification of income levels of low income occupants;
 - 7. A description of how the tax exemption will benefit project residents;
 - 8. A declaration that the corporation has been granted an exemption from income taxes under 26 U.S.C. Section 501(c)(3) or (4);
 - 9. A description of the development of the property if the property is being held for future low income housing development; and
 - 10. Any other information required by state or local law or which is otherwise reasonably necessary to effectuate the purposes of this chapter at the time the application is submitted.
- B. The application must include the following statements:
 - 1. That the applicant is aware of all requirements for property tax exemption imposed by this chapter;
 - 2. That the applicant's property qualified or, upon completion of the rehabilitation improvements and subsequent occupancy by low income persons, will qualify for exemption at the time of application approval or within 30 days of the March 1

application deadline;

3. That the applicant acknowledges responsibility for compliance with the Tigard Municipal Code, regardless of whether the applicant obtains the exemption provided by this chapter; and
 4. That the applicant agrees to furnish other information which is reasonably necessary to fulfill the objectives of this chapter.
- C. The applicant must verify the information provided in the application as required by subsections A and B above by oath or affirmation.

(Ord. 96-34 ; Ord. 19-17 §1)

§ 3.50.050. Determination of Eligibility for Exemption; Notice to County Assessor.

- A. Within 30 days of the filing of an application under Section 3.50.040, the governing body will determine whether the applicant qualifies for the exemption. If the governing body determines the applicant qualifies, the governing body will certify to the assessor of the county where the real property is located that all or a portion of the property be exempt from taxation under the levy of the certifying governing body.
- B. Upon receipt of certification under subsection A of this section, the county assessor will exempt the property from taxation to the extent certified by the governing body.

(Ord. 96-34 ; Ord. 19-17 §1)

§ 3.50.060. Termination of Exemption.

- A. If the governing body determines that property that has received an exemption under this chapter in anticipation of future development of low-income housing is being used for any purposes other than the provision of low-income housing, or that any provision of this chapter is not being complied with, the governing body will give notice of the proposed termination of the exemption to the owner(s) by mailing the notice to the last known address of the owner(s), and to every known lender, by mailing the notice to the last known address of every known lender. The notice will state the reasons for the proposed termination and require the owner(s) to appear at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.
- B. If the owner(s) fail to appear and show cause why the exemption should not be terminated, the governing body will notify every known lender, and allow any lender not less than 30 days after the date the notice of failure to appear and show cause is mailed to cure any noncompliance or to provide adequate assurance to the governing body that all noncompliance will be remedied.
- C. If the owner(s) fail to appear and show cause why the exemption should not be terminated, and the lender fails to cure or give adequate assurance of the cure of noncompliance, the governing body will adopt a resolution stating its findings that terminate the exemption. Within 10 days of the adoption of the resolution, a copy of the resolution will be filed with the county assessor and sent to the owner(s) at the owner(s)' last known address and to the lender at the last known address of the lender.
- D. Upon the county assessor's receipt of the city's termination findings:

1. The exemption granted to the housing unit or portion under this chapter immediately terminates, without right of notice or appeal;
 2. The property will be assessed and taxed as other property similarly situated is assessed and taxed; and
 3. Notwithstanding ORS 311.235, there will be added to the general property tax roll for the tax year next following the presentation or discovery, to be collected and distributed in the same manner as other real property tax, an amount equal to the difference between the taxes assessed against the property and the taxes that would have been assessed against the property had it not been exempt under this chapter for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under this chapter.
- E. The assessment and tax rolls will show potential additional tax liability for each property granted an exemption under this chapter if the property is being held for future development of low-income housing.
- F. Additional taxes collected under this section will be deemed to have been imposed in the year to which the additional taxes relate.

(Ord. 19-17 §1)

CHAPTER 3.60 AUDITS OF CITY FEES, CHARGES, AND TAXES

§ 3.60.010. Definitions.

"Audit" means a formal or informal review of the basis of any payment to the City, including review and verification of source documentation or data, calculations, and final payments.

"Fees and Charges" means any fee or charge imposed under provisions of the Tigard Municipal Code or agreement for any City service, right, or privilege, or franchise or other agreement for the exclusive or non-exclusive use of any City asset, including, but not limited to, public rights of way, roads and byways, buildings, parks or other City facilities.

"Payment" means amounts owed to the City from any contract, license, franchise or agreement.

"Taxes" means amounts levied against broad groups or classes of payers not for specific goods or services. Taxes include, but are not limited to, ad valorum property taxes, business taxes, utility taxes, privilege taxes, income taxes, transient lodging or hotel/motel taxes, or any other tax duly adopted by or imposed by the City.

§ 3.60.020. Authority.

1. The City of Tigard reserves the right to audit any and all payments made to the City for any fees, charges, taxes, or payments due, payable or owing. Such audit may be conducted at any time or place of the City's choosing following provision of reasonable notice to the subject of the audit.
2. The City's right to audit may not be limited or waived except by express will of the City Council through adoption of a resolution so stating, along with clear justification for the need for the limitation or waiver.

§ 3.60.030. Obligation to Provide Records.

1. Any person, organization, or business duly notified that they will be audited by the City shall provide all necessary records, documents, data, or access to individuals in a form acceptable to the City at a location in the Portland metropolitan area, or at any other location approved in advance by the City's Finance Director, at the auditee's expense.
2. The City shall have no obligation to pay for the furnishing of such records or access to individuals.

§ 3.60.040. Confidentiality of Records and Data.

1. Any person, organization, or business notified that they will be audited under this chapter may submit a written request to the City Manager requesting treatment of records, data or information as confidential under Oregon Public Records Laws. The City Manager shall review any such requests and if the request complies with the provision of the Public Records Law may grant the request and direct confidential treatment of the records, data, or information.
2. In no case shall the final results of the audit be considered confidential.

§ 3.60.050. Cost of Audit.

1. Except as provided in 3.60.030, the cost of any audit initiated by the City or under the City's authority shall be paid for by the City, with the exception that if an audit reveals an underpayment in amounts owed to the City of more than 5% for the period audited, the auditee shall reimburse the City for all audit costs.
2. If the City conducts an audit of a group or class of payers, and one or more of this group or class shall be found to have underpaid the City by 5%, their obligation to reimburse the City for the cost of the audit shall be apportioned based on their share(s) of the total final amount due for the period being audited.

§ 3.60.060. Interest Owing on Past Due Amounts.

1. Unless otherwise provided by City ordinance or written agreement, interest charges on past due amounts revealed by any audit shall be charged at the rate allowed by State statute.
2. Upon submittal of written application showing just cause, the City's Finance Director may waive any interest charges of less than \$1,000.00.

(Ord. 03-01)

**CHAPTER 3.65
MOTOR VEHICLE FUEL TAX**

§ 3.65.010. Short Title.

The provisions of this chapter shall be known and may be cited as the "City of Tigard Motor Vehicle Fuel Tax Ordinance."

§ 3.65.015. Purpose.

The purpose of the motor vehicle fuel tax is to raise revenues necessary for the construction, reconstruction, improvement, repair, maintenance, operation and use of the public street system in the city.

§ 3.65.020. Definitions.

As used in this ordinance, unless the context requires otherwise:

"City" means City of Tigard, a municipal corporation of the State of Oregon.

"Dealer" means any person who:

- a. Imports or causes to be imported motor vehicle fuel for sale, use or distribution in, and after the same reaches the city, but "dealer" does not include any person who imports into the city motor vehicle fuel in quantities of 500 gallons or less purchased from a supplier who is licensed as a dealer hereunder and who assumes liability for the payment of the applicable motor vehicle fuel tax to the city; or
- b. Produces, refines, manufactures or compounds motor vehicle fuels in the city for use, distribution or sale in the city; or
- c. Acquires in the city for sale, use or distribution in the city motor vehicle fuel with respect to which there has been no motor vehicle fuel tax previously incurred.

"Distribution" means, in addition to its ordinary meaning, the delivery of motor vehicle fuel by a dealer to any service station or into any tank, storage facility or series of tanks or storage facilities connected by pipelines, from which motor vehicle fuel is withdrawn directly for sale or for delivery into the fuel tanks of motor vehicles whether or not the service station, tank or storage facility is owned, operated or controlled by the dealer.

"Highway" means every way, thoroughfare and place of whatever nature, open for use of the public for the purpose of vehicular travel.

"Motor vehicle" means all vehicles, engines or machines, movable or immovable, operated or propelled by the use of motor vehicle fuel.

"Motor vehicle fuel" means and includes diesel and gasoline and any other flammable or combustible gas or liquid, by whatever name such as diesel and gasoline, gas or liquid is known or sold, usable as fuel for the operation of motor vehicles, except gas or liquid, the chief use of which, as determined by the tax administrator, is for purposes other than the propulsion of motor vehicles upon the highways.

"Person" includes every natural person, association, firm, partnership, corporation, joint venture or other business entity.

"Service station" means and includes any place operated for the purpose of retailing and delivering motor vehicle fuel into the fuel tanks of motor vehicles.

"Tax administrator" means the city manager, the city manager's designee, or any person or entity with whom the city manager contracts to perform those duties.

§ 3.65.030. Tax Imposed.

A motor vehicle fuel tax is hereby imposed on every dealer. The tax imposed shall be paid to the tax administrator. The tax administrator is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection and administration of the motor vehicle fuel tax, including all powers specified in ORS 319.010 to 319.430.

(Ord. 08-20 ; Ord. 09-12)

§ 3.65.040. Amount and Payment.

1. In addition to any fees or taxes otherwise provided for by law, every dealer engaging in his own name, or in the name of others, or in the name of his representatives or agents in the city, in the sale, use or distribution of motor vehicle fuel, shall:
 - a. Not later than the 25th day of each calendar month, render a statement to the tax administrator or duly authorized agent of all motor vehicle fuel sold, used or distributed by him/her in the city as well as all such fuel sold, used or distributed in the city by a purchaser thereof upon which sale, use or distribution the dealer has assumed liability for the applicable motor vehicle fuel tax during the preceding calendar month.
 - b. Pay a motor vehicle fuel tax computed on the basis of three cents per gallon of such motor vehicle fuel so sold, used or distributed as shown by such statement in the manner and within the time provided in this ordinance.
2. In lieu of claiming refund of the tax as provided in Section 3.65.210, or of any prior erroneous payment of motor vehicle fuel tax made to the city by the dealer, the dealer may show such motor vehicle fuel as a credit or deduction on the monthly statement and payment of tax.
3. The motor vehicle fuel tax shall not be imposed wherever it is prohibited by the Constitution of laws of the United States or of the State of Oregon.

(Ord. 09-12)

§ 3.65.050. Permit Requirements.

No dealer shall sell, use or distribute any motor vehicle fuel until he/she has secured a dealer's permit as required herein.

§ 3.65.060. Permit Applications and Issuance.

1. Every person, before becoming a dealer in motor vehicle fuel in this city, shall make an application to the tax administrator for a permit authorizing such person to engage in business as a dealer.
2. Applications for the permit must be made on forms prescribed, prepared and furnished by

the tax administrator.

3. The applications shall be accompanied by a duly acknowledged certificate containing:
 - a. The business name under which the dealer is transacting business.
 - b. The address of the applicant's principal place of business and location of distributing stations in the city.
 - c. The name and address of the managing agent, the names and addresses of the several persons constituting the firm or partnership and, if a corporation, the corporate name under which it is authorized to transact business and the names and addresses of its principal officers and registered agent.
4. If an application for a motor vehicle fuel dealer's permit is complete and has been accepted for filing, the tax administrator shall issue to the dealer a permit in such form as the tax administrator may prescribe to transact business in the city. The permit so issued is not assignable, and is valid only for the dealer in whose name it is issued.
5. The tax administrator shall keep and file all applications with an alphabetical index thereof, together with a record of all permitted dealers.

§ 3.65.070. Failure to Secure Permit.

1. If any dealer sells, distributes or uses any motor vehicle fuel without first filing the certificate and securing the permit required by Section 3.65.060, the motor vehicle fuel tax shall immediately be due and payable on account of all motor vehicle fuel so sold, distributed or used.
2. The tax administrator shall proceed forthwith to determine, from as many available sources as the tax administrator determines reasonable, the amount of tax due, and shall assess the tax in the amount found due, together with a penalty of 100% of the tax, and shall make a certificate of such assessment and penalty. In any suit or proceeding to collect such tax or penalty or both, the certificate shall be *prima facie* evidence that the dealer therein named is indebted to the city in the amount of the tax and penalty stated.
3. Any tax or penalty so assessed may be collected in the manner prescribed in Section 3.65.110 with reference to delinquency in payment of the tax or by action at law.
4. In the event any suit or action is instituted to enforce this section, if the city is the prevailing party, the city shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to other sums provided by law.

§ 3.65.080. Revocation of Permit.

The tax administrator may revoke the permit of any dealer who fails to comply with any provision of Sections 3.65.020 to 3.65.270. The tax administrator shall mail by certified mail addressed to such dealer at his last known address appearing on the files of the tax administrator, a notice of intention to cancel. The notice shall give the reason for the cancellation. The cancellation shall become effective without further notice if within 10 days from the mailing of the notice the dealer has not made good its default or delinquency.

§ 3.65.090. Cancellation of Permit.

1. The tax administrator may, upon written request of a dealer, cancel a permit issued to the dealer. The tax administrator shall, upon approving the dealer's request for cancellation, set a date not later than 30 days after receipt of the written request, after which the permit shall no longer be effective.
2. The tax administrator may, after 30 days' notice has been mailed to the last known address of the dealer, cancel the permit of the dealer upon finding that the dealer is no longer engaged in the business of a dealer.

§ 3.65.100. Remedies Cumulative.

Except as otherwise provided in Sections 3.65.110 and 3.65.130, the remedies provided in Sections 3.65.070, 3.65.080 and 3.65.090 are cumulative. No action taken pursuant to those sections shall relieve any person from the penalty provisions of this code.

§ 3.65.110. Payment of Tax and Delinquency.

1. The motor vehicle fuel tax imposed by Sections 3.65.030 and 3.65.040 shall be paid to the tax administrator on or before the 25th day of each month.
2. Except as provided in subsections (3) and (4) of this section, if payment of the motor vehicle fuel tax is not paid as required by subsection (1) of this section, a penalty of one percent of such motor vehicle fuel tax shall be assessed and be immediately due and payable.
3. Except as provided in subsection (4) of this section, if payment of the tax and penalty, if any, is not made on or before the 1st day of the next month following that month in which payment is due, a further penalty of 10% of the tax shall be assessed. Said penalty shall be in addition to the penalty provided for in subsection (2) of this section, and shall be immediately due and payable.
4. Penalties imposed by this section shall not apply if a penalty has been assessed and paid pursuant to Section 3.65.070. The tax administrator may for good cause shown waive any penalties assessed under this section.
5. If any person fails to pay the motor vehicle fuel tax or any penalty provided for by this section, the tax and/or penalty shall be collected from that person for the use of the city. The tax administrator shall commence and prosecute to final determination in any court of competent jurisdiction an action to collect the same.
6. In the event any suit or action is instituted to collect the motor vehicle fuel tax or any penalty provided for by this section, if the city is the prevailing party, the city shall be entitled to recover from the person sued reasonable attorney's fees at trial or upon appeal of such suit or action, in addition to other sums provided by law.
7. No dealer who collects from any person the tax provided for herein shall knowingly and willfully fail to report and pay the same to the city as required herein.

§ 3.65.120. Monthly Statement of Dealer.

Every dealer in motor vehicle fuel shall provide to the tax administrator on or before the 25th day of each month, on forms prescribed, prepared and furnished by the tax administrator, a statement

of the number of gallons of motor vehicle fuel sold, distributed or used by him/her during the preceding calendar month. The statement shall be signed by the dealer or the dealer's agent.

All statements filed with the city, as required in this section, are public records.

§ 3.65.130. Failure to File Monthly Statements.

If a dealer fails to file any statement required by Section 3.65.120, the tax administrator shall proceed forthwith to determine from as many available sources as the tax administrator determines to be reasonable the amount of motor vehicle fuel sold, distributed or used by such dealer for the period unreported, and such determination shall in any proceeding be prima facie evidence of the amount of such fuel sold, distributed or used. The tax administrator shall immediately assess the dealer for the motor vehicle fuel tax upon the amount determined, adding thereto a penalty of 10% of the tax. The penalty shall be cumulative to other penalties provided in this code.

§ 3.65.140. Billing Purchasers.

Dealers in motor vehicle fuels shall render bills to all purchasers of motor vehicle fuel. The bills shall separately state and describe the different products sold or shipped thereunder and shall be serially numbered except where other sales invoice controls acceptable to the tax administrator are maintained.

§ 3.65.150. Failure to Provide Invoice or Delivery Tag.

No person shall receive and accept motor vehicle fuel from any dealer, or pay for the same, or sell or offer the motor vehicle fuel for sale, unless the motor vehicle fuel is accompanied by an invoice or delivery tag showing the date upon which motor vehicle fuel was delivered, purchased or sold, and the name of the dealer in motor vehicle fuel.

§ 3.65.160. Transporting Motor Vehicle Fuel in Bulk.

Every person operating any conveyance for the purpose of hauling, transporting or delivering motor vehicle fuel in bulk shall, before entering upon the public highways of the city with such conveyance, have and possess during the entire time of the hauling or transporting of such motor vehicle fuel, an invoice, bill of sale or other written statement showing the number of gallons, the true name and address of the seller or consignor, and the true name and address of the buyer or consignee, if any, of the same. The person hauling such motor vehicle fuel shall at the request of any officer authorized by law to inquire into or investigate such matters, produce and offer for inspection the invoice, bill of sale or other statement.

§ 3.65.170. Exemption of Export Fuel.

1. The motor vehicle fuel tax imposed by Sections 3.65.030 and 3.65.040 shall not be imposed on motor vehicle fuel:
 - a. Exported from the city by a dealer; or
 - b. Sold by a dealer in individual quantities of 500 gallons or less for export by the purchaser to an area or areas outside the city in containers other than the fuel tank of a motor vehicle, but every dealer shall be required to report such exports and sales to the city in such detail as may be required.

2. In support of any exemption from motor vehicle fuel taxes claimed under this section other than in the case of stock transfers or deliveries in his own equipment, every dealer must execute and file with the tax administrator an export certificate in such form as shall be prescribed, prepared and furnished by the tax administrator, containing a statement, made by some person having actual knowledge of the fact of such exportation, that the motor vehicle fuel has been exported from the city, and giving such details with reference to such shipment as the tax administrator may require. The tax administrator may demand of any dealer such additional data as is deemed necessary in support of any such certificate, and failure to supply such data will constitute a waiver of all right to exemption claimed by virtue of such certificate. The tax administrator may, in a case where tax administrator believes no useful purpose would be served by filing of an export certificate, waive the filing of the certificate.
3. Any motor vehicle fuel carried from the city in the fuel tank of a motor vehicle shall not be considered as exported from the city.
4. No person shall, through false statement, trick or device, or otherwise, obtain motor vehicle fuel for export as to which the city tax has not been paid and fail to export the same, or any portion thereof, or cause the motor vehicle fuel or any portion thereof not to be exported, or divert or cause to be diverted the motor vehicle fuel or any portion thereof to be used, distributed or sold in the city and fail to notify the tax administrator and the dealer from whom the motor vehicle fuel was originally purchased of his/her act.
5. No dealer or other person shall conspire with any person to withhold from export, or divert from export or to return motor vehicle fuel to the city for sale or use so as to avoid any of the fees imposed herein.
6. In support of any exemption from taxes on account of sales of motor vehicle fuel in individual quantities of 500 gallons or less for export by the purchaser, the dealer shall retain in his/her files for at least three years an export certificate executed by the purchaser in such form and containing such information as is prescribed by the tax administrator. This certificate shall be *prima facie* evidence of the exportation of the motor vehicle fuel to which it applies only if accepted by the dealer in good faith.

§ 3.65.175. Sales to Armed Forces Exempted.

The license tax imposed by Sections 3.65.030 and 3.65.040 shall not be imposed on any motor vehicle fuel sold to the Armed Forces of the United States for use in ships, aircraft or for export from the city; but every dealer shall be required to report such sales to the tax administrator in such detail as may be required. A certificate by an authorized officer of such Armed Forces shall be accepted by the dealer as sufficient proof that the sale is for the purpose specified in the certificate.

§ 3.65.190. Fuel in Vehicle Coming into City Not Taxed.

Any person coming into the city in a motor vehicle may transport in the fuel tank of such vehicle, motor vehicle fuel for his/her own use only and for the purpose of operating such motor vehicle without securing a permit or paying the tax provided in Sections 3.65.030 and 3.65.040, or complying with any of the provisions imposed upon dealers herein, but if the motor vehicle fuel so brought into the city is removed from the fuel tank of the vehicle or used for any purpose other than the propulsion of the vehicle, the person so importing fuel into the city shall be subject to

all the provisions herein applying to dealers.

§ 3.65.200. Fuel Sold or Delivered to Dealers.

1. A dealer selling or delivering motor vehicle fuel to dealers is not required to pay a motor vehicle fuel tax thereon.
2. The dealer in rendering monthly statements to the city as required by Sections 3.65.040 and 3.65.120 shall show separately the number of gallons of motor vehicle fuel sold or delivered to dealers.

§ 3.65.210. Refunds.

Refunds will be made pursuant to ORS 319.280 to 319.320. Claim forms for refunds may be obtained from the tax administrator's office.

§ 3.65.220. Examination and Investigations.

The tax administrator, or duly authorized agents, may make any examination of accounts, records, stocks, facilities and equipment of dealers, service stations and other persons engaged in storing, selling or distributing motor vehicle fuel or other petroleum product or products within this city, and such other investigations as it considers necessary in carrying out the provisions of Sections 3.65.020 through 3.65.270. If the examinations or investigations disclose that any reports of dealers or other persons theretofore filed with the tax administrator pursuant to the requirements herein, have shown incorrectly the amount of gallonage or motor vehicle fuel distributed or the tax accruing thereon, the tax administrator may make such changes in subsequent reports and payments of such dealers or other persons, or may make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations. The dealer shall reimburse the city for reasonable costs of the examination or investigation if the action disclosed that the dealer paid 95% or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the city, such additional payment shall be subject to interest at the rate of 18% per year from the date the original tax payment was due.

§ 3.65.230. Limitation on Credit for or Refund of Overpayment and on Assessment of Additional Tax.

1. Except as otherwise provided in this ordinance, any credit for erroneous overpayment of tax made by a dealer taken on a subsequent return or any claim for refund of tax erroneously overpaid filed by a dealer must be so taken or filed within three years after the date on which the overpayment was made to the city.
2. Except in the case of a fraudulent report or neglect to make a report, every notice of additional tax proposed to be assessed under this code shall be served on dealers within three years from the date upon which such additional taxes become due, and shall be subject to penalty as provided in Section 3.65.110.

§ 3.65.240. Examining Books and Accounts of Carrier of Motor Vehicle Fuel.

The tax administrator or duly authorized agents may at any time during normal business hours examine the books and accounts of any carrier of motor vehicle fuel operating within the city for

the purpose of enforcing the provisions of this chapter.

§ 3.65.250. Records to Be Kept by Dealers.

Every dealer in motor vehicle fuel shall keep a record in such form as may be prescribed by the tax administrator of all purchases, receipts, sales and distribution of motor vehicle fuel. The records shall include copies of all invoices or bills of all such sales and shall at all times during the business hours of the day be subject to inspection by the tax administrator or authorized officers or agents of the tax administrator.

§ 3.65.260. Records to Be Kept Three Years.

Every dealer shall maintain and keep, for a period of three years, all records of motor vehicle fuel used, sold and distributed within the city by such dealer, together with stock records, invoices, bills of lading and other pertinent papers as may be required by the tax administrator. In the event such records are not kept within the State of Oregon, the dealer shall reimburse the tax administrator for all travel, lodging, and related expenses incurred by the tax administrator in examining such records. The amount of such expenses shall be an additional tax imposed by Section 3.65.030.

§ 3.65.270. Use of Tax Revenues.

1. For the purposes of this section, net revenue shall mean the revenue from the tax imposed by Sections 3.65.020 through 3.65.270 remaining after providing for the cost of administration and any refunds and credits authorized herein.
2. The net revenue shall be used only for the construction, reconstruction, improvement, repair, maintenance, operation and use of public highways, roads and streets within the city. The net revenue shall be used exclusively for improvements to the Greenburg Road/Highway 99/Main Street intersection until such improvements are fully funded.
3. Upon sufficient funds being collected to fully finance and pay for the Greenburg Road/Highway 99/Main Street intersection improvements, all funds collected pursuant to this chapter will be maintained in the Tigard City Gas Tax Fund. The Tigard City Council will designate the use of net revenues based on project and program priorities and recommendations of the Tigard Transportation Advisory Committee.

(Ord. 06-21 ; Ord. 08-20 ; Ord. 09-12 ; Ord. 18-27 §1)

CHAPTER 3.75 PARKS AND RECREATION FEE

§ 3.75.010. Creation and Purpose.

A parks and recreation fee is created and imposed for the purpose of maintenance of city parks. The parks and recreation fee shall be paid by the responsible party for each occupied unit of real property. The purposes of the parks and recreation fee are to charge for the service the city provides in maintaining public parks and to ensure that maintenance occurs in a timely fashion, thereby reducing increased costs that result when maintenance is deferred.

(Ord. 16-06 §1)

§ 3.75.020. Definitions.

As used in this chapter, the following shall mean:

Public Works Director. The public works director or the public works director's designee.

Developed Property or Developed Use. A parcel or legal portion of real property, on which an improvement exists or has been constructed. Improvement on developed property includes, but is not limited to buildings, parking lots, landscaping and outside storage.

Equivalent Dwelling Unit. Equivalent dwelling units (EDUs) are the basis for equally apportioning annual parks and recreation fee revenue requirements among customer groups.

Finance Director. The finance and information services director or designee.

Residential Property. Property that is used primarily for personal domestic accommodation, including single family, multi-family residential property and group homes, but not including hotels and motels.

Nonresidential Property. Property that is not primarily used for personal domestic accommodation. Nonresidential property includes industrial, commercial, institutional, hotel and motel, and other nonresidential uses.

Occupied Unit. Any structure or any portion of any structure occupied for residential, commercial, industrial, or other purposes. For example, in a multifamily residential development, each dwelling unit shall be considered a separate occupied unit when occupied, and each retail outlet in a shopping mall shall be considered a separate occupied unit. An occupied unit may include more than one structure if all structures are part of the same dwelling unit or commercial or industrial operation. For example an industrial site with several structures that form an integrated manufacturing process operated by a single manufacturer constitutes one occupied unit. Property that is undeveloped or, if developed, is not in current use is not considered an occupied unit.

Responsible Party. The person or persons who by occupancy or contractual arrangement are responsible to pay for utility and other services provided to an occupied unit. Unless another party has agreed in writing to pay and a copy of the writing is filed with the city, the person(s) paying the city's water and/or sewer bill for an occupied unit shall be deemed the responsible party as to that occupied unit. For any occupied unit not otherwise required to pay a city utility bill, "responsible party" shall mean the person or persons legally entitled to occupancy of the occupied unit, unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the city. Any person who has agreed in writing to pay is considered the responsible person if a copy of the writing is filed with the city.

Park Maintenance. Any action to operate and maintain city parks, including, but not limited to repair, renewal, replacement, reconstruction, minor improvements, programming, recreation and other park activities. Park maintenance does not include the capital development, construction or acquisition of new parks or undeveloped parks.

(Ord. 16-06 §1)

§ 3.75.030. Administrative Officers Designated.

- A. Except as provided in subsections B and C of this section, the public works director shall be responsible for the administration of this chapter. The public works director shall be responsible for developing administrative procedures for the chapter, administration of fees, and for the purposes of establishing the fee for a specific occupied unit, the consideration and assignment of categories of use, and parking space requirements subject to appeal in accordance with this chapter.
- B. The public works director shall be responsible for developing and maintaining park maintenance programs for the maintenance of city parks and, subject to city budget committee review and city council approval, allocation and expenditure of budget resources for park system maintenance in accordance with this chapter.
- C. The finance director shall be responsible for the collection and calculation of fees and the appeals process under this chapter.

(Ord. 16-06 §1)

§ 3.75.040. Parks and Recreation Fees Allocated to the Parks Fund.

- A. All parks and recreation fees received shall be deposited to the parks fund or other fund for the purpose of operation and maintenance of the city park system. The parks fund shall be used for park maintenance. Other revenue sources may also be used for park maintenance. Amounts in the parks fund may be invested by the finance director in accordance with state law. Earnings from such investments shall be dedicated to the parks fund.
- B. The parks fund shall not be used for other governmental or proprietary purposes of the city, except to pay for an equitable share of the city's overhead costs including accounting, management and other costs related to management and operation of the park maintenance program.

(Ord. 16-06 §1)

§ 3.75.050. Determination of Parks and Recreation Fee.

- A. For residential and nonresidential property, the fee shall be charged on a per equivalent dwelling unit (EDU) basis. For single family and multifamily accounts, each occupied unit within the residential property is one EDU. The calculation of an EDU for commercial and industrial accounts will be defined in the master fees and charges schedule.
- B. The parks and recreation fee rates shall be established by council resolution and shall be calculated based on all or a part of:
 1. The city's projected five-year maintenance forecast plan for operations and maintenance of the city's park system; and
 2. Any new maintenance costs incurred during the five-year program. New costs

include, but are not limited to, maintenance of additional park land, new park development of existing park land, and new or expanded programming and operations. These will be addressed annually based on estimates from the public works director.

- C. The parks and recreation fee rate shall be annually adjusted to account for new costs (as identified in Section 3.75.050.B.2) and according to an annual index as defined in the master fees and charges, effective the first billing cycle following July 1st of each year, starting July 1, 2017.
 - D. Council may establish a program to reduce the parks and recreation fee for lower income utility payers. The program may be administered by city staff or a qualified non-profit. The program may be defined in the city's master fees and charges schedule.
 - E. The program shall be reviewed annually as part of the city's budget process.
- (Ord. 16-06 §1)

§ 3.75.060. Determination of Amount, Billing and Collection of Fee.

- A. The parks and recreation fee shall be billed to and collected from the responsible party for each occupied unit. Billings shall be included as part of the utility bill for occupied units utilizing city water and/or sewer, and billed and collected separately for those occupied units not utilizing city water and/or sewer. All such bills shall be rendered regularly by the finance director and shall become due and payable upon receipt.
 - B. Collections from utility customers will be applied first to interest and penalties, then proportionately among the various charges for utility services and park maintenance.
 - C. An account is delinquent if the parks and recreation fee is not paid by the due date shown on the utility bill. The city may follow the procedures for collection of delinquent accounts set forth in Sections 12.03.030 and/or 12.03.040, including termination of water and/or sanitary sewer service.
- (Ord. 16-06 §1)

§ 3.75.070. Waiver of Fees in Case of Vacancy.

- A. Pursuant to subsection F of this section, when any developed property within the city becomes vacant, upon written application and approval by the finance director, the parks and recreation fee shall thereafter not be billed and shall not be a charge against the property.
- B. The finance director is authorized to cause an investigation of any property for which an application for determination of vacancy is submitted to verify any of the information contained in the application. The finance director is further authorized to develop and use a standard form of application, provided it shall contain a space for verification of the information and the person signing such form affirms under penalty for false swearing the accuracy of the information provided therein.
- C. When any developed property within the city has the utilities shut-off due to vacancy, the parks and recreation fee shall be waived for the duration of the vacancy as described in subsection F of this section.

- D. When any multi-occupied developed property within the city has one or more vacancies as described in subsection F of this section, the responsible party may request, in writing, a waiver of a portion of the parks and recreation fee applicable to the vacant units.
- E. When a change of use occurs, a vacancy has been filled, or a property is developed, it is the responsible party's responsibility to inform the city of any change so the proper parks and recreation fees may be assessed. If the responsible party does not inform the city of any change, the city shall cancel the vacancy waiver and charge the responsible party as per subsection F of this section.
- F. For purposes of this section, a unit of property is vacant when it has been continuously unoccupied and unused for at least 30 days. Fees shall be waived in accordance with this section only while the property remains vacant. The waiver duration is for six months. After six months, the responsible party must re-apply for the waiver if the property continues to be unoccupied and unused. The responsible party has 30 days to re-apply for the vacancy waiver after the expiration of the six month waiver. Any occupancy or use of the property terminates the waiver. As a penalty for not reporting a change in property vacancy, the city may charge any property two times the appropriate parks and recreation fee that would have been due without the vacancy waiver for prior billing periods upon determining by whatever means that the property did not qualify for waiver of charges during the relevant time. The decision of the finance director under subsections A, B, C, D and F of this section shall be final.

(Ord. 16-06 §1)

§ 3.75.080. Administrative Provisions and Appeals.

- A. The responsible party for an occupied unit may request reconsideration of the amount of the fee by submission of a written application to the finance director. The application shall be submitted in sufficient detail to enable the finance director to render a decision.
- B. To address the submitted request, the city may follow the procedures for utility charge adjustments set forth in Section 12.03.040.

(Ord. 16-06 §1)

§ 3.75.090. Administrative Policies.

- A. The following policies shall apply to the operation and scope of this chapter:
 - 1. Parks and recreation fees imposed under this chapter shall apply to all occupied units, occupied units owned and/or occupied by local, state and federal governments, as well as property which may be entitled to exemption from or deferral of ad valorem property taxation.
 - 2. Publicly owned park land, open spaces and greenways shall not be subject to the parks and recreation fee.
 - 3. Areas encompassing railroad and public right-of-way shall not be subject to the parks and recreation fee.
 - 4. Railroad property containing structures, such as maintenance areas, non-rolling storage areas and areas used for the transfer of rail transported goods to non-rail transport shall be subject to parks and recreation fees.

5. For newly developed properties, the fees imposed under this chapter shall become due and payable from and after the date when the developed property is occupied and connected to the public water or sanitary sewer system.
- B. The public works director and the finance director are authorized and directed to review the operation of this chapter and, where appropriate, recommend changes thereto in the form of administrative policies for adoption of the city council by resolution. Administrative policies are intended to provide guidance to property owners, subject to this chapter, as to its meaning or operation, consistent with policies expressed herein. Policies adopted by the council shall be given full force and effect, and unless clearly inconsistent with this chapter, shall apply uniformly throughout the city.
- (Ord. 16-06 §1)

§ 3.75.100. Penalty.

In addition to any other remedy, violation of any provision of this chapter shall be a Class A civil infraction. Each day of delinquency in paying the parks and recreation fee constitutes a separate violation.

(Ord. 16-06 §1)

§ 3.75.110. Severability.

- A. In the event any section, subsection, paragraph, sentence or phrase of this chapter or any administrative policy adopted herein is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the chapter shall continue to be effective. If a court of competent jurisdiction determines that this chapter imposes a tax or charge, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions from the imposition of the parks and recreation fee shall thereby be created and the remainder of the chapter and the fees imposed thereunder shall continue to apply to the remaining properties without interruption.
 - B. Nothing contained herein shall be construed as limiting the city's authority to levy special assessments in connection with public improvements pursuant to applicable law.
- (Ord. 16-06 §1)

**CHAPTER 3.80
MARIJUANA TAX**

§ 3.80.010. Purpose.

The purpose of this chapter is to impose a tax upon the retail sale of marijuana items by marijuana retailers in the City of Tigard.

(Ord. 16-15 §1)

§ 3.80.015. Definitions.

As used in this chapter, unless the context requires otherwise:

"Consumer" means a person who purchases, acquires, owns, holds or uses marijuana items other than for the purposes of resale.

"Director" means the Director of Finance for the City of Tigard or designee.

"Retail sale price" means the price paid for a marijuana item, excluding tax, to a marijuana retailer by or on behalf of a consumer of the marijuana item.

"Marijuana item" has the meaning given that term in ORS 475B.015(16).

"Person" means natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or any group or combination acting as a unit, including the United States of America, the State of Oregon and any political subdivision thereof, or the manager, lessee, agent, servant, officer or employee of any of them.

"Retail sale" or "sale" means the exchange, gift or barter of a marijuana item by any person to a consumer.

"Marijuana retailer" means any person who is required to be licensed or registered or has been licensed or registered by the State of Oregon to provide marijuana items to consumers for money, credit, property or other consideration.

"Tax" means either the tax payable by the marijuana retailer or the aggregate amount of taxes due from a marijuana retailer during the period for which the marijuana retailer is required to report collections under this chapter.

"Taxpayer" means any person obligated to account to the director for taxes collected or to be collected, or from whom a tax is due, under the terms of this chapter.

(Ord. 16-15 §1)

§ 3.80.020. Tax Imposed.

A tax is hereby levied and shall be paid by every marijuana retailer exercising the taxable privilege of selling marijuana items as defined in this chapter. The director is authorized to exercise all supervisory and administrative powers with regard to the enforcement, collection, and administration of the tax.

(Ord. 16-15 §1)

§ 3.80.025. Amount and Payment, Deductions.

In addition to any fees or taxes otherwise provided for by law, every marijuana retailer engaged in the sale of marijuana items in the City of Tigard shall pay a tax of three percent of the retail

sale price paid to the marijuana retailer of marijuana items, or the maximum allowed by state law, whichever is greater. The tax shall be collected at the point of sale of a marijuana item by a marijuana retailer at the time at which the retail sale occurs and remitted by each marijuana retailer that engages in the retail sale of marijuana items.

(Ord. 16-15 §1)

§ 3.80.030. Marijuana Retailer Responsible for Payment of Tax.

- A. Every marijuana retailer shall obtain a business license from the City of Tigard pursuant to TMC 5.04. The marijuana retailer will indicate on the business license application whether the marijuana retailer is licensed by or registered with the State of Oregon to provide marijuana items to consumers for money, credit, property or other consideration.
- B. Every marijuana retailer shall, on or before the last day of the month following the end of each calendar quarter (in the months of April, July, October and January) make a return to the director, on forms provided by the city, specifying the total sales subject to this chapter and the amount of tax collected under this chapter. The marijuana retailer may request, or the city may establish, shorter reporting periods for any marijuana retailer if the marijuana retailer or city deems it necessary in order to ensure collection of the tax and the city may require further information in the return relevant to payment of the tax. A return shall not be considered filed until it is actually received by the director.
- C. At the time the return is filed, the full amount of the tax collected shall be remitted to the city.
- D. Payments shall be applied in the order of the oldest liability first, with the payment credited first toward any accrued penalty, then to interest, then to the underlying tax until the payment is exhausted. Crediting of a payment toward a specific reporting period will be first applied against any accrued penalty, then to interest, then to the underlying tax. If the director, in his or her sole discretion, determines that an alternative order of payment application would be in the best interest of the city in a particular tax or factual situation, the director may order such a change. The director may establish shorter reporting periods for any marijuana retailer if the director deems it necessary in order to ensure collection of the tax. The director also may require additional information in the return relevant to payment of the liability. When a shorter return period is required, penalties and interest shall be computed according to the shorter return period. Returns and payments are due immediately upon cessation of business for any reason. All taxes collected by marijuana retailers pursuant to this chapter shall be held in trust for the account of the city until payment is made to the city. A separate trust bank account is not required in order to comply with this provision.
- E. Every marijuana retailer must keep and preserve, in an accounting format established by the director, records of all sales made by the marijuana retailer and such other books or accounts as may be required by the director for a period of three years or until all taxes associated with the sales have been paid, whichever is longer. The city shall have the right to inspect all such records at all reasonable times.

(Ord. 16-15 §1)

§ 3.80.035. Penalties and Interest.

- A. Any marijuana retailer who fails to remit any portion of any tax imposed by this chapter

within the time required shall pay a penalty of 10% of the amount of the tax, in addition to the amount of the tax.

- B. If the city determines that the nonpayment of any remittance due under this chapter is due to fraud, a penalty of 25% of the amount of the tax shall be added thereto in addition to the penalties stated in subsections A and C of this section.
 - C. In addition to the penalties imposed, any marijuana retailer who fails to remit any tax imposed by this chapter shall pay interest at the rate of one percent per month or fraction thereof on the amount of the tax, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
 - D. Penalties imposed, and such interest as accrues for violation of this chapter are separate from, and in addition to, the tax imposed on the sale of marijuana items.
 - E. All sums collected pursuant to the penalty provisions in this section shall be distributed to the City of Tigard General Fund to offset the costs of auditing and enforcement of this tax.
- (Ord. 16-15 §1)

§ 3.80.040. Appeal.

Any marijuana retailer aggrieved by any decision of the director with respect to the amount of such tax, interest and penalties, if any, may appeal pursuant to the Appeals to Civil Infractions Hearings Officer in Chapter 1.17 of this code, except that the appeal shall be filed within 30 days of the serving or mailing of the determination of tax due. The hearings officer shall hear and consider any records and evidence presented bearing upon the director's determination of amount due, and make findings affirming, reversing or modifying the determination. The findings of the hearings officer shall be final and conclusive, and shall be served upon the appellant in the manner prescribed in Chapter 1.17. Any amount found to be due shall be immediately due and payable upon the service of notice.

(Ord. 16-15 §1)

§ 3.80.045. Refunds.

- A. Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once, or has been erroneously collected or received by the city under this chapter, it may be refunded as provided in subsection B of this section, provided a claim in writing, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the director within one year of the date of payment. The claim shall be on forms furnished by the city.
- B. The director shall have 20 calendar days from the date of receipt of a claim to review the claim and make a determination in writing as to the validity of the claim. The director shall notify the claimant in writing of the director's determination. Such notice shall be mailed to the address provided by claimant on the claim form. In the event a claim is determined by the director to be a valid claim, in a manner prescribed by the director a marijuana retailer may claim a refund, or take as credit against taxes collected and remitted, the amount overpaid, paid more than once or erroneously collected or received. The marijuana retailer shall notify the director of claimant's choice no later than 15 days following the date the director mailed the determination. In the event claimant has not notified the director of claimant's choice within the 15-day period and the marijuana retailer is still in business, a

credit will be granted against the tax liability for the next reporting period. If the marijuana retailer is no longer in business, a refund check will be mailed to claimant at the address provided in the claim form.

- C. No refund shall be paid under the provisions of this section unless the claimant established the right by written records showing entitlement to such refund and the director acknowledged the validity of the claim.

(Ord. 16-15 §1)

§ 3.80.050. Actions to Collect.

Any tax required to be paid by any marijuana retailer under the provisions of this chapter shall be deemed a debt owed by the marijuana retailer to the city. Any such tax collected by a marijuana retailer which has not been paid to the city shall be deemed a debt owed by the marijuana retailer to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the City of Tigard for the recovery of such amount. In lieu of filing an action for the recovery, the City of Tigard, when taxes due are more than 30 days delinquent, can submit any outstanding tax to a collection agency. So long as the City of Tigard has complied with the provisions set forth in ORS 697.105, in the event the city turns over a delinquent tax account to a collection agency, it may add to the amount owing an amount equal to the collection agency fees, not to exceed the greater of \$50.00 or 50% of the outstanding tax, penalties and interest owing.

(Ord. 16-15 §1)

§ 3.80.055. Violation.

- A. Violation of this chapter shall constitute a Class 1 civil infraction which shall be processed according to the procedures established in Chapter 1.16 of this code, Civil Infractions. It is a violation of this chapter for any marijuana retailer or other person to:

1. Fail or refuse to comply as required herein;
2. Fail or refuse to furnish any return required to be made;
3. Fail or refuse to permit inspection of records;
4. Fail or refuse to furnish a supplemental return or other data required by the city;
5. Render a false or fraudulent return or claim; or
6. Fail, refuse or neglect to remit the tax to the city by the due date.

- B. Filing a false or fraudulent return shall be considered a Class B misdemeanor, subject to Section 7.28.020 of this code, Unsworn Falsification. The remedies provided by this section are not exclusive and shall not prevent the city from exercising any other remedy available under the law, nor shall the provisions of this chapter prohibit or restrict the city or other appropriate prosecutor from pursuing criminal charges under state law or city ordinance.

(Ord. 16-15 §1)

§ 3.80.060. Confidentiality.

Except as otherwise required by law, it shall be unlawful for the city, any officer, employee or

agent to divulge, release or make known in any manner any financial information submitted or disclosed to the city under the terms of this chapter. Nothing in this section shall prohibit:

- A. The disclosure of the names and addresses of any person who is operating a licensed establishment from which marijuana items are sold or provided; or
- B. The disclosure of general statistics in a form which would not reveal an individual marijuana retailer's financial information; or
- C. The disclosure of information to any state agency related to the licensing or registration of the marijuana retailer or when required to carry out any part of this chapter; or
- D. Presentation of evidence to the court, or other tribunal having jurisdiction in the prosecution of any criminal or civil claim by the city or an appeal from the city for amount due the city under this chapter; or
- E. The disclosure of information when such disclosure of conditionally exempt information is ordered under public records law procedures; or
- F. The disclosure of records related to a business' failure to report and remit the tax when the report or tax is in arrears for over six months or the tax exceeds \$5,000.00. The City Council expressly finds and determines that the public interest in disclosure of such records clearly outweighs the interest in confidentiality under ORS 192.501(5).

(Ord. 16-15 §1)

§ 3.80.065. Audit of Books, Records, or Persons.

- A. The city, for the purpose of determining the correctness of any tax return, or for the purpose of an estimate of taxes due, may examine or may cause to be examined by an agent or representative designated by the city for that purpose, any books, papers, records, or memoranda, including copies of marijuana retailer's state and federal income tax return, bearing upon the matter of the marijuana retailer's tax return. All books, invoices, accounts and other records shall be made available within the city limits and be open at any time during regular business hours for examination by the director or an authorized agent of the director.
- B. If the examinations or investigations disclose that any reports of marijuana retailers filed with the director pursuant to the requirements herein have shown incorrectly the amount of tax accruing, the director may make such changes in subsequent reports and payments, or make such refunds, as may be necessary to correct the errors disclosed by its examinations or investigations.
- C. The marijuana retailer shall reimburse the city for reasonable costs of the examination or investigation if the action disclosed that the marijuana retailer paid 95% or less of the tax owing for the period of the examination or investigation. In the event that such examination or investigation results in an assessment by and an additional payment due to the city, such additional payment shall be subject to interest at the rate of one percent per month, or the portion thereof, from the date the original tax payment was due.
- D. If any taxpayer refuses to voluntarily furnish any of the foregoing information when requested, the city may immediately seek a subpoena from the Tigard Municipal Court to require that the taxpayer or a representative of the taxpayer attend a hearing or produce any

such books, accounts and records for examination.

- E. Every marijuana retailer shall keep a record in such form as may be prescribed by the city of all sales of marijuana items. The records shall at all times during the business hours of the day be subject to inspection by the city or authorized officers or agents of the director.
- F. Every marijuana retailer shall maintain and keep, for a period of three years, or until all taxes associated with the sales have been paid, whichever is longer, all records of marijuana items.

(Ord. 16-15 §1)

§ 3.80.070. Forms and Regulations.

The director is hereby authorized to prescribe forms and promulgate rules and regulations to aid in the making of returns, the ascertainment, assessment and collection of said marijuana tax and in particular and without limiting the general language of this chapter, to provide for:

- A. A form of report on sales and purchases to be supplied to all vendors; and
- B. The records which marijuana retailers are to keep concerning the tax imposed by this chapter.

(Ord. 16-15 §1)

§ 3.80.075. Intergovernmental Agreement.

The City Council may enter into an IGA with any department or agency of the State of Oregon whereby the state is responsible for the administration, collection, distribution, or enforcement of the tax authorized under this chapter, either in full or in part. The terms of that agreement shall apply in lieu of and shall supersede conflicting provisions of this chapter but shall not be construed as repealing any provision of this chapter.

(Ord. 16-15 §1)

**CHAPTER 3.85
LOCAL TRANSIENT LODGING TAX**

§ 3.85.010. Purpose.

The purpose of this chapter is to impose a tax upon the transient lodging by any occupant in the City of Tigard.

(Ord. 17-18 §1)

§ 3.85.020. Definitions.

As used in this chapter, unless the context requires otherwise:

"City" means the City of Tigard, Oregon.

"City council" means the City Council of the City of Tigard, Oregon.

"Finance department" means the finance department of the city.

"Finance director" means the director of the finance department or his/her designee.

"Lodging" means "transient lodging" as defined by ORS 320.300, except that "lodging" shall not include dwelling units at nonprofit facilities, dormitory rooms used for educational purposes, camping sites, and recreational vehicle sites.

"Occupancy" means the use or possession, or the right to use or possession, for lodging purposes, of any space, or portion thereof, in lodging.

"Occupant" means a person who uses or possesses, or who has the right to use or possess any space, or portion thereof, in a lodging.

"Rent" means the consideration charged, whether or not received by the transient lodging provider, for the occupancy of space in lodging, whether or not valued in money, without any deduction.

"Tax" or "taxes" means either the tax payable by the occupant or the aggregate amount of taxes due from a provider during the period for which the provider is required to report collections.

"Transient lodging provider" or "provider" means the person who is the proprietor of a lodging in any capacity. Where management functions are performed through a managing agent other than an employee, the managing agent who shall have the same duties and liabilities as the proprietor shall be the provider. Compliance with the provisions of this chapter by either the proprietor or the managing agent shall be considered to be compliance by both.

(Ord. 17-18 §1)

§ 3.85.030. Tax Imposed.

For the privilege of occupancy in any lodging, each occupant shall pay a tax in the amount of two and a half percent of the rent charged by the transient lodging provider. The tax constitutes a debt owed by the occupant to the city, which is extinguished only by payment to the transient lodging provider at the time the rent is paid. The transient lodging provider shall enter the tax on the provider's records when the rent is collected. If the rent is paid in installments, a proportionate share of the tax shall be paid by the occupant to the provider with each installment. If for any reason the tax due is not paid to the provider, the finance director may require that the tax be paid directly to the city. The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

(Ord. 17-18 §1)

§ 3.85.040. Collection.

- A. Except when occupants or lodgings are exempt under this chapter, every transient lodging provider renting occupancy in a lodging in the city shall collect a tax from the occupant. The tax collected or accrued by the provider constitutes a debt owing by the provider to the city.
- B. In cases of credit or deferred payment of rent, the payment of the tax to the provider may be deferred until the rent is paid, and the provider shall not be liable for the tax until the credit is paid or the deferred payment is made.
- C. The finance director shall enforce this chapter and the city may adopt policies, rules, and regulations consistent with this chapter as necessary to aid in the enforcement.

(Ord. 17-18 §1)

§ 3.85.050. Provider's Duties.

Each transient lodging provider shall collect the tax imposed by this chapter on an occupant. The amount of the tax shall be separately stated upon the provider's records and on any receipt for the rent rendered by the provider to the occupant. No provider shall advertise that the tax or any part of the tax will be assumed or absorbed by the provider, or that it will not be added to the rent, or that, when added, any part will be refunded.

(Ord. 17-18 §1)

§ 3.85.060. Exemptions.

No tax imposed by this chapter shall be imposed upon dwelling units described in ORS 320.308.
(Ord. 17-18 §1)

§ 3.85.070. Registry.

- A. Every person engaging or about to engage in business as a transient lodging provider in this city shall register with the city on a form provided by the finance department. Providers starting business must register within 30 calendar days after commencing business. The privilege of registration after the date of imposition of the tax shall not relieve any person from the obligation of payment or collection of tax regardless of registration. Registration forms shall require the name under which a provider transacts or intends to transact business, the location of the place of business, and other similar additional information required by the finance department to facilitate the collection of the tax. The registration shall be signed or electronically submitted by the provider.
- B. The finance department shall, within 15 business days after registration, issue without charge a certificate of authority to each provider to collect the tax from the occupant, together with a duplicate thereof for each additional place of business of each provider. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the finance department upon the cessation of business at the location named, or upon the business sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed.
- C. The certificate shall state, at minimum, the following:

1. The name of the provider;
2. The address of the lodging;
3. The date upon which the certificate was issued; and
4. This statement: "This Transient Lodging Registration Certificate signifies that the person named has fulfilled the requirements of the transient lodgings tax chapter of the Tigard Municipal Code for the purpose of collecting and remitting the lodgings tax. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a lodging without strictly complying with all local applicable laws, including, but not limited to, those requiring a permit from any board, commission, department or office of the city. This certificate does not constitute a permit."

(Ord. 17-18 §1)

§ 3.85.080. Returns.

- A. The tax imposed by this chapter shall be paid by the occupant to the transient lodging provider when the occupant pays rent to the provider. All transient lodging taxes collected by a provider are due and payable to the finance department, on a quarterly basis, on or before the last day of the month following the end of the calendar quarter, or, if the last day is not a business day, the next business day thereafter.
- B. Providers shall file, with the quarterly tax payment, or, if there is no tax payment due for a given quarter, at the time the tax payment would have been due, a return for that quarter's tax collections. The return shall be filed with the finance department and shall be on a form prescribed by the finance department. The return shall reflect the amount of tax collected or otherwise due for the period for which the return is filed. At the discretion of the finance director, it may also reflect:
 1. The total rentals upon which the tax is collected or otherwise due;
 2. Gross receipts of the provider for the period;
 3. The amount of rents exempt, if any; and
 4. An explanation in detail of any discrepancies.
- C. The provider or his/her designee shall deliver the quarterly tax payment and return to the finance department at its office either by personal delivery, via a website portal, or by United States Mail. If the return and taxes are mailed, the postmark shall be considered the date of delivery for determining delinquency.
- D. At any time before the due date, the finance director may, for good cause, extend the due date for making any return and/or payment of tax for up to 30 days after the date the tax would have become due but for the extension. Further extensions must be approved by the city manager. A provider who is granted an extension shall pay a fee of three percent per month of the unpaid tax without proration for a fraction of a month.
- E. If the finance director deems it necessary, in order to ensure payment or to facilitate collection by the city of the amount of taxes in any individual case, the finance director may require that payment of the taxes be made in other than quarterly periods.

(Ord. 17-18 §1)

§ 3.85.090. Penalties and Interest.

- A. A penalty will be imposed on a provider who mails, hand delivers, or submits online the return and the tax payment after the due date. The penalty is five percent of the unpaid tax. If the provider files and/or pays more than thirty days after the due date, an additional 10% penalty of the unpaid tax will be added to the balance of the unpaid tax. Interest at the rate of 10% per annum will be imposed on any unpaid tax and penalties starting 60 days after the due date until the date payment in full is received by the finance department.
- B. If the finance director determines that the nonpayment of any remittance due under this chapter is due to fraud or intent to evade the provisions of this chapter, a penalty of 18% of the amount of the tax shall be added, in addition to the penalties and interest above.

(Ord. 17-18 §1)

§ 3.85.100. Deficiencies.

- A. If the finance director determines that a return is incorrect, the finance director may compute and determine or estimate the amount required to be paid based on the facts contained in the return or returns or any other information within the finance director's possession. One or more deficiency determinations may be made on the amounts due for one or more periods.
- B. In making a deficiency determination, the finance director may offset overpayments, if any, which may have been previously made for a period or periods against any deficiency for a subsequent period or periods, or against penalties and interest on the deficiency.
- C. Once a deficiency determination is made, the finance director shall serve a written deficiency notice on the provider (or occupant, in the case of a request for a refund). The notice may be given personally or sent by United States mail. If sent by mail, the notice shall be addressed to the provider at his/her address as it appears on the records of the city or as the city can best determine.
- D. Any deficiency is due and payable 30 days after the finance director serves the written deficiency notice. If not paid by the 30th day after service of a deficiency notice, the amount shall be delinquent and penalties and interest shall be applied as established in this chapter.
- E. The provider (or occupant, in the case of a request for a refund) may petition for a redetermination provided that the petition is filed within 15 days of service of the deficiency notice. Nothing prohibits the finance director from extending the time for petition beyond 15 days at his/her discretion.
- F. Except as provided in this chapter, every deficiency determination shall be made and notice mailed within three years after a return was originally filed or subsequently amended, whichever period expires later. In the case of the filing of a false or fraudulent return with the intent to evade this chapter, a failure to file a required return, or a willful refusal to collect and remit the tax, a deficiency determination may be made, or a proceeding for the collection of the deficiency may be commenced at any time.
- G. If the finance director believes that the collection of any tax required to be collected and

paid to the city will be jeopardized by delay, or if any determination will be jeopardized by delay, the finance director may make a determination of the tax or amount of tax required to be collected. The finance director will serve a written deficiency notice and demand for immediate payment on the provider. The amount shall be immediately due and payable, and the provider shall immediately pay such determination to the city after service of the notice, provided, however, the provider may petition, after payment has been made, for a redetermination of the finance director's assessment, provided that the petition is filed within 15 days of service of the deficiency notice.

(Ord. 17-18 §1)

§ 3.85.110. Redetermination.

- A. If a petition for redetermination, redemption, and refund is filed within the requisite time period, the finance director shall reconsider the determination, and, if the person has so requested in his/her petition, shall grant the person an oral hearing and shall give him/her 15 days' notice of the time and place of the hearing. The finance director may continue the hearing from time to time as necessary.
- B. The finance director may decrease or increase the amount of the determination as a result of the reconsideration, the hearing, or both, and, if an increase is determined, such increase shall be payable immediately after the reconsideration or the hearing, as appropriate.
- C. The decision of the finance director upon a petition for redetermination, redemption, and refund becomes final 15 days after service of the notice of decision upon the petitioner.
- D. No petition for redetermination, redemption, or refund or other appeal shall be accepted and no petition is effective for any purpose unless the provider has first complied with the payment provision of this chapter and has paid in full the amount determined to be due under the decision appealed from.

(Ord. 17-18 §1)

§ 3.85.120. Security.

The finance director, whenever the finance director deems it necessary to ensure compliance with this chapter, may require any provider subject to this chapter to deposit with the finance director security in the form of cash, bond, or other assets, as the finance director determines. The amount of the security shall be fixed by the finance director but shall not be greater than the provider's estimated quarterly liability for the period for which the provider files returns, determined in a manner the finance director deems proper, or \$500, whichever amount is less. The amount of security may be increased or decreased by the finance director within the limitation of this section.

(Ord. 17-18 §1)

§ 3.85.130. Refunds.

- A. Whenever the amount of any tax imposed under this chapter has been paid more than once or has been erroneously or illegally collected or received by the finance department, it may be refunded; provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the finance director within two years from the date of payment. The claim shall be made on forms provided by the finance department. If the claim is approved, the excess amount collected or paid may be refunded to the provider

from whom it was collected or by whom it was paid, or the provider's administrators, executors, or assignees. Alternatively, at the discretion of the finance director, the refund may be credited toward any amounts then due and payable from the provider from whom it was collected or by whom it was paid, and the balance, if any, may be refunded to the provider or the provider's administrators, executors, or assignees.

- B. Whenever the tax required by this chapter has been collected by the provider and it is later determined that the occupant has occupied the occupancy for a period exceeding 30 days without interruption, the provider shall refund to the occupant the tax previously collected by the provider from the occupant. If the provider has remitted the tax prior to refund or credit to the occupant, the provider shall be entitled to a corresponding refund under this section. The provider shall account for all collections and refunds under this subsection to the finance department.

(Ord. 17-18 §1)

§ 3.85.140. Expenditure of Funds.

All money collected pursuant to this chapter shall be the general funds of the city and may be used in any lawful manner, as prescribed by state law.

(Ord. 17-18 §1)

§ 3.85.150. Collection Fee.

Every provider liable for collection and remittance of the tax imposed by this chapter may withhold five percent of the net tax due to cover expenses in its collection and remittance.

(Ord. 17-18 §1)

§ 3.85.160. Administration.

- A. Every provider shall keep records of rentals and accounting books that are sufficient to demonstrate compliance with the provisions of this chapter. These records shall be retained for three years and six months after they are created.
- B. The finance director may examine, during normal business hours, the books, papers, and accounting records relating to rentals of any provider liable for the tax, after notification to the provider, and may investigate the business of the provider in order to verify the accuracy of any return made, or if no return is made by the provider, to ascertain and determine the amount required to be paid.
- C. A formal audit of all of the providers' records may be conducted at the discretion of the finance director. If, under this formal audit, it is determined that any provider has underpaid the taxes due by three percent or more, the provider shall pay his/her prorated portion of the total audit fee. Should the finance director, in his/her sole discretion, conduct or cause to be conducted individual audits in addition to the audit anticipated above, and should that individual audit determine that the audited provider has underpaid the taxes due by three percent or more, the provider shall pay the total individual audit fee.
- D. Except as otherwise required by law, it shall be unlawful for any officer, employee, or agent of the city to divulge, release, or make known in any manner any financial information submitted or disclosed to the city under the terms of this chapter. Nothing in this section shall be construed to prohibit:

1. The disclosure to, or the examination of, financial records by city officers, employees, or agents for the purpose of administering or enforcing the terms of this chapter, or collecting taxes imposed under the terms of this chapter;
2. The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of transient lodging taxes, penalties, or interest, after filing of a written request by the taxpayer or his/her authorized representative and approval of the request by the finance director;
3. The disclosure of the names and addresses of any person to whom this chapter applies;
4. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or
5. The disclosure of financial information to the city Attorney or other legal representative of the city to the extent the finance director deems disclosure or access necessary for the performance of the duties of advising or representing the finance director, the finance department, or the city.

(Ord. 17-18 §1)

§ 3.85.170. Notice.

In case of service by mail of any notice required by this chapter, the service is complete three days after deposit with the United States Post Office.

(Ord. 17-18 §1)

§ 3.85.180. Appeals.

Any person aggrieved by any decision of the finance director may appeal to the city manager (or his/her designee) by filing a notice of appeal with the finance director within 15 days of the serving of the notice of the finance director's decision. The finance director shall transmit the notice, together with the file of the appealed matter, to the city manager, who shall fix a time and place for hearing the appeal. The city manager shall give the appellant not less than 15 days' written notice of the time and place for hearing the appeal. The city manager may continue the hearing from time to time as necessary.

(Ord. 17-18 §1)

§ 3.85.190. Violations and Penalty.

- A. No provider or other person required to do so may fail or refuse to, in the time periods prescribed by this chapter, furnish any return required to be made under this chapter or furnish a supplemental return or other data required by the finance director, or make the remittance to the finance director of the amount of the taxes, penalties, or interest due. No person may render a false or fraudulent return under this chapter. No person required to make, render, sign, or verify any report regarding the tax may make any false or fraudulent report.
- B. At any time within three years after any tax required to be collected becomes due and payable, at any time within three years after any determination by the finance director or city manager under this chapter becomes final, or at any time within three years after any person who is required to do so fails to furnish true and non-fraudulent information within

the time periods prescribed by this chapter, the city may commence and prosecute to final determination in any court of competent jurisdiction an action to collect the same.

- C. A person who violates a provision of this chapter commits a Class 1 civil infraction. Each transient lodging transaction for which tax, penalty or interest otherwise due is not paid shall be deemed a separate civil infraction. Each day a person fails to register as a transient lodging tax collector shall be deemed a separate civil infraction.

(Ord. 17-18 §1)

§ 3.85.200. Intergovernmental Agreement.

The city council may enter into an IGA with Washington County whereby the county is responsible for the administration, collection, distribution, or enforcement of the tax authorized under this chapter, either in full or in part. The terms of that agreement shall apply in lieu of and shall supersede conflicting provisions of this chapter but shall not be construed as repealing any provision of this chapter.

(Ord. 17-18 §1)

**CHAPTER 3.90
CONSTRUCTION EXCISE TAX**

§ 3.90.010. Purpose.

This chapter establishes a construction excise tax ("CET") on commercial and residential improvements to provide funding for affordable housing in the City of Tigard.

(Ord. 19-16 §1)

§ 3.90.020. Definitions.

As used in this chapter, unless the context requires otherwise:

"Accessory dwelling unit (ADU)" means a second or third dwelling unit on the same lot as a primary dwelling unit, either attached to or detached from the primary unit, and with separate facilities for sleeping, cooking, and sanitation in accordance with the building code adopted pursuant to TMC 14.04.

"Building official" means the building official for the City of Tigard, or designee.

"City" means the City of Tigard, Oregon.

"City manager" means the city manager for the City of Tigard, or designee.

"Commercial" means any structure designed or intended to be used, or actually used, for occupancy for other than residential purposes and includes structures otherwise categorized or described as industrial.

"Construct" or "construction" means erecting, constructing, enlarging, altering, repairing, improving, or converting any building or structure for which the issuance of a building permit is required pursuant to the provisions of Oregon law.

"Improvement" means any improvements to real property resulting in a new structure, additional square footage added to an existing structure, or additional living space to an existing structure.

"Median family income" means median family income by household size as defined annually by the Housing and Urban Development (HUD) for the Portland-Vancouver Metropolitan Statistical Area (MSA).

"Net revenue" means revenues remaining after refunds and the administrative fees described in Section 3.90.080.A are deducted from the total construction excise tax collected.

"Residential" means any structure designed or intended to be used, or actually used, for occupancy for residential purposes including any residential structure, dwelling, or dwelling unit.

"Value of improvement" means the total value of the improvement as determined by the construction permit(s) or building permit(s) for the improvement, regardless of the number of separate permits issued. The city building official will calculate the total value in accordance with OAR 918-050-0100, Statewide Fee Methodologies for Residential and Commercial Permits, or as otherwise provided by law.

(Ord. 19-16 §1; Ord. 23-05 §2)

§ 3.90.030. Tax Imposed.

A. Each person who obtains a permit to construct a commercial improvement in the city must

pay a commercial CET in the amount of one percent of the value of the improvement.

- B. Each person who obtains a permit to construct a residential improvement in the city must pay a residential CET in the amount of one percent of the value of the improvement.
- C. The CET is due and must be paid at the time of issuance of a building permit. The CET amount is assessed at the time of submittal of a building permit application.

(Ord. 19-16 §1)

§ 3.90.040. Administration and Enforcement.

The city manager is responsible for the implementation, administration, and enforcement of this chapter. The city manager may adopt such policies and procedures as are necessary to efficiently and effectively carry out that responsibility, consistent with the provisions of this chapter.

(Ord. 19-16 §1)

§ 3.90.050. Exemptions.

- A. Notwithstanding TMC 3.90.030, the following are exempt from payment of the CET:

1. Residential housing units, including detached housing, that are subject to a deed restriction or other mechanism acceptable to the city ensuring that the unit(s) are affordable under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80% of the median household income for a period of at least 20 years following the date of issuance of the building permit on which the improvement value is based and that remain affordable. For purposes of the initial determination of eligibility for this exemption, the city will use the median family income for the year prior to the date of issuance of the permit on which the improvement value is based. Continuing affordability will be determined based on the median family income for the prior calendar year.
2. Accessory dwelling units of 1,000 square feet or less. This exemption is repealed automatically on July 31, 2027, after which date the full CET value will be assessed.
3. Construction or improvements having a total improvement value of less than \$50,000.00.
4. Construction or improvements to a residential structure that was partially or completely destroyed by unintentional means, such as fire or act of nature, where such construction or improvement results in a net increase of living area of 10% or less over the living area of the destroyed structure.
5. Cottage clusters, courtyard units, and quads, as defined by Chapters 18.30 and 18.200 of the Tigard Community Development Code, from 75% of the CET. The remaining 25% is due and payable as provided in Section 3.90.030.C. This exemption is repealed automatically on July 31, 2027, after which date the full CET value will be assessed.
6. Public and private school improvements.
7. Public improvements as defined in ORS 279A.010.
8. Public or private hospital improvements.

9. Improvements to religious facilities primarily used for worship or education associated with worship.
 10. Long-term care facilities, as defined in ORS 442.015, operated by a not-for-profit corporation.
 11. Residential care facilities, as defined in ORS 443.400, operated by a not-for-profit corporation.
 12. Continuing care retirement communities, as defined in ORS 101.020, operated by a not-for-profit corporation.
 13. Any improvements required to be exempted from this CET by state law.
- B. The city may require any person seeking an exemption to demonstrate that the improvement is eligible for an exemption and to establish all necessary facts to support the exemption.
- (Ord. 19-16 §1; Ord. 23-05 §2)

§ 3.90.060. Failure to Pay.

The city may not issue a building permit to any person required to pay the CET unless the person has paid the full amount of CET alleged by the city to be due.

(Ord. 19-16 §1)

§ 3.90.070. Failure to Maintain Units as Affordable.

The exemption for affordable units provided in Section 3.90.050.A.1. automatically terminates if the unit ceases to qualify as affordable at any time during the 20-year period of affordability. For purposes of this section, affordability is calculated using the median family income determination for the preceding calendar year. At any time, if the exemption terminates, the CET will immediately be due and payable as of the date the unit no longer qualifies as affordable, together with interest and penalties as provided in Section 3.90.100. The amount of the CET will be calculated using the CET in effect at the time the unit ceases to qualify. The owner of record of the unit at the time the unit ceases to qualify will be obligated to pay. The seller and buyer, jointly and severally, will be obligated to pay if the unit ceases to qualify as the result of a sale, including a sale to a person occupying or intending to occupy the unit whose income exceeds the median family income determination for the prior year.

(Ord. 19-16 §1)

§ 3.90.080. Expenditure of Funds.

- A. The city may retain up to four percent of the tax collected for payment toward administrative expenses related to collection and distribution of the tax.
- B. After deducting the administrative fee authorized by subsection A, the net revenue from the tax on residential improvements will be allocated by the city as follows:
 1. 15% of net revenue will be remitted to the Oregon Department of Housing and Community Services to fund home ownership programs.
 2. 50% of net revenue will fund incentives for the development and construction of affordable housing authorized by the city as provided by state law.

3. 35% of net revenue will fund programs and activities related to affordable housing.
- C. After deducting the administrative fee authorized by subsection A, 50% of the net revenue from the tax on commercial improvements will fund programs of the city related to housing.
- (Ord. 19-16 §1)

§ 3.90.090. Statement of Entire Value of Improvement Required.

- A. It is a violation of this chapter for any person to fail to state or to misstate the full value of any improvement.
- B. Additional CET will be due on any increase in the value of the improvement arising from the value having been understated or arising from construction changes that result in increased building permit fees.
- (Ord. 19-16 §1)

§ 3.90.100. Penalties and Interest.

- A. Interest. Interest will be due on the entire amount that the city manager determines has not been paid and assessed at the rate of 10% per annum from the due date. Interest will be assessed to the 15th day of the month following the due date. Interest amounts properly assessed in accordance with this section may not be waived or reduced by the city manager.
- B. Penalties. In addition to assessing interest, a penalty of five percent of the otherwise applicable CET liability will be imposed upon:
1. Any person who removes one or more units from the affordability exemption in Section 3.90.050.A.1.
 2. Any person who intentionally fails to state the full value of an improvement.
 3. Any person who fails to pay the full amount of the tax, interest, and any penalty within 30 days of notice from the city that the tax is due.
- C. Penalties and Interest Merged with Tax. Any accrued interest and imposed penalties under this section will be merged with and become a part of the CET required to be paid under this chapter. This amount becomes the new base for calculating new interest amounts.
- (Ord. 19-16 §1)

§ 3.90.110. Enforcement by Civil Action.

The CET, and any assessed interest and penalties, due and owing under this chapter constitutes a debt owing to the city by the person liable for the tax as set forth in Section 3.90.040. The city has all remedies available at law and equity.

(Ord. 19-16 §1)

§ 3.90.120. Refunds.

- A. The city will issue a refund to any person who has paid a CET if:
1. The person establishes that the tax was paid for improvements that were otherwise eligible for an exemption under Section 3.90.050 at the time of permit issuance;

2. The person establishes that construction of the improvements had not begun and the associated building permit was cancelled by the city; or
 3. The city manager determines that the amount of any CET, penalty, or interest was erroneously collected or paid to the city.
- B. The city will either refund all amounts due within 30 days of a complete request for the refund or give written notice of the reasons why the request has been denied. Claims for refunds must be made upon forms provided by the city. The request for the refund must be submitted within three years from the date of payment of the CET.
- C. Denial of a request for refund may be appealed as provided for in Section 3.90.130.
(Ord. 19-16 §1)

§ 3.90.130. Appeals.

- A. A person who objects to a determination issued by the city applying the provisions of this chapter may file for review of the determination by the city's finance director. The request for administrative review must be in writing, received within 10 days of the determination, and must include documentation supporting the request. The finance director's determination in the administrative review will be sent by regular mail.
- B. The administrative review determination of the finance director may be appealed to the city manager by filing a notice of appeal with the city manager within 10 days of issuance of the finance director's determination. The notice must describe the basis for the appeal and the relief sought.
- C. The filing of any notice of appeal does not stay the effectiveness of the written determination unless the city manager so directs.
- D. Notwithstanding Section 3.90.060, the city may issue a building permit while an appeal is pending provided that the applicant posts with the city the full amount alleged by the city to be due. No interest will accrue to the applicant on the deposit.
- E. The city manager will provide a written decision by regular mail to the person who filed the appeal. The city manager's decision on appeal is the city's final decision, subject to judicial review only as provided in ORS 34.010 et seq.

(Ord. 19-16 §1)

Title 4

(RESERVED)

BUSINESS LICENSES AND REGULATIONS

Title 5**BUSINESS LICENSES AND REGULATIONS**

Chapter 5.04 BUSINESS LICENSES		Chapter 5.12 CABLE SYSTEM	
§ 5.04.010.	Short Title.	§ 5.12.010.	Short Title.
§ 5.04.020.	Purpose.	§ 5.12.020.	Definitions.
§ 5.04.030.	Definitions.	§ 5.12.030.	Declaration of Powers.
§ 5.04.040.	Prohibited Business Operation.	§ 5.12.040.	Selection of Franchise.
§ 5.04.050.	One Act Constitutes Doing Business.	§ 5.12.050.	Administration of Cable System Ordinance and Franchise.
§ 5.04.060.	Agents Responsible for Obtaining a Business License.	§ 5.12.060.	Violation, Penalties and Remedies.
§ 5.04.070.	Separate License for Branch Establishments and Multiple Locations.		Chapter 5.16 SOUND TRUCKS
§ 5.04.080.	Rental Real Property.	§ 5.16.010.	Definitions.
§ 5.04.090.	Multiple Businesses at Same Location.	§ 5.16.020.	Use of Sound Trucks—Registration Statement.
§ 5.04.100.	No Business License Required.	§ 5.16.030.	Use of Sound Trucks—Registration Statement Amendment.
§ 5.04.110.	Business License Required but Exempt from Business License Fee.	§ 5.16.040.	Use of Sound Trucks—Registration and Identification.
§ 5.04.120.	Issuance of Business License.	§ 5.16.050.	Use of Sound Trucks—Regulations for Use.
§ 5.04.130.	Procedure for Obtaining a Business License.	§ 5.16.060.	Penalties for Violations.
§ 5.04.140.	Display.		Chapter 5.20 LIQUOR LICENSE APPLICATION PROCESS
§ 5.04.150.	Reissue of Business License.		Review of Applications.
§ 5.04.155.	Change in Business Ownership.		Temporary Liquor License—Time Limitation.
§ 5.04.160.	Fee Schedule.		Appeal Process.
§ 5.04.165.	Renewal.		
§ 5.04.170.	Commercial Crime Unit.	§ 5.20.010.	
§ 5.04.173.	Temporary Business.	§ 5.20.020.	
§ 5.04.180.	Administration and Enforcement.	§ 5.20.040.	
§ 5.04.190.	Penalties.		
§ 5.04.200.	Rate Review and Adjustment.		

	Chapter 5.22 SOCIAL GAMES		
§ 5.22.010.	Definitions.	§ 5.24.020.	Definitions.
§ 5.22.020.	Social Games—Authorization and Conditions.	§ 5.24.030.	TNC Permit Required—Fees.
§ 5.22.030.	Responsibilities of Owner and Person in Charge.	§ 5.24.040.	Certification Requirements.
§ 5.22.040.	Inspection of Social Games Premises.	§ 5.24.050.	TNC Certification Requirements.
§ 5.22.050.	Notice of Social Games Required.	§ 5.24.060.	TNC Insurance Requirements.
§ 5.22.060.	License; License Fee; Civil Penalties.	§ 5.24.070.	TNC Operating Requirements—Prohibitions.
§ 5.22.070.	Appeal Process for License Denial.	§ 5.24.080.	TNC Accessible Service Requirements.
§ 5.22.080.	Appeal Process for Assessment of Fine.	§ 5.24.090.	TNC Driver Certification Requirements.
	Chapter 5.24 TRANSPORTATION NETWORK COMPANIES		
§ 5.24.010.	Purpose.	§ 5.24.100.	TNC Driver Conduct and Operating Requirements.
		§ 5.24.110.	TNC Vehicle Requirements.
		§ 5.24.120.	Intergovernmental Agreement—Effect of Local Regulations.
		§ 5.24.130.	Enforcement.

CHAPTER 5.04 BUSINESS LICENSES

§ 5.04.010. Short Title.

The provisions of this chapter shall be known and may be cited as the "Business License Ordinance of the City of Tigard."

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.020. Purpose.

The purpose of this licensing procedure is to assure compliance with the provisions of this chapter and defray the reasonable costs of administration of this chapter by any city department involved in administration and enforcement activities under this chapter. The fees generated under authority of this chapter shall be in addition to, and not in lieu of, any other license permit fee, charge, tax or fine required under any ordinance of the city.

It is not intended by this chapter to repeal, abrogate or annul or in any way impair or interfere with the existing provisions of other laws or ordinances, except those specifically repealed by the ordinance codified in this chapter. Where this chapter imposes a greater restriction on persons, premises or personal property than is imposed or required by such existing provisions of law, ordinance, contract or deed, the provisions of this chapter shall control.

The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue. The provisions of this chapter prescribing license fees shall be strictly construed in favor of the applicability of the license fee.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.030. Definitions.

For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"Business" means all kinds of vocations, occupations, professions, enterprises, establishments, and all kinds of activities and matters, together with all devices, machines, vehicles and appurtenances used therein, any of which are conducted for private profit, or benefit, either directly or indirectly, on any premises in the city, including home occupations.

A person "engages in business" within the meaning of this chapter when soliciting orders for future delivery, selling or offering for sale, trade or barter any goods, merchandise or service, performing any service for profit, delivering any goods or merchandise within the city, personally advertising by individual contract with residents of the city any goods, merchandise or service to be sold or performed within or without the city. Such activity shall also include engaging in an enterprise, establishment, store, shop, activity, profession or undertaking of any nature conducted, either directly or indirectly, for private profit or benefit.

"The city" means the City of Tigard, Oregon.

"City Council" means the City Council of the City of Tigard, Oregon.

"Full-time equivalent employee" means the total number of hours worked by all employees working within the City of Tigard divided by two thousand eighty hours, which equals the number of full-time equivalent employees working within the City of Tigard.

"Person" means and includes but is not limited to individual natural persons, partnerships, joint ventures, societies, associations, clubs, trustees, trusts or corporations; or any officers, agents, employees, factors of any kind or personal representatives thereof, in any capacity, either on that person's own behalf, or for any other person, under either personal appointment or pursuant to law.

"Permanent business" means professions, trades, occupations, shops and all and every kind of calling carried on for profit, personal gain, trade or barter and livelihood at a fixed or permanently established place of business maintained within the city.

"Premises" means and includes all lands, structures, places and also the equipment and appurtenances connected or used therewith in any business, and also any personal property which is affixed to or is otherwise used in connection with any such business conducted on such premises.

"Temporary business" means any business that has a valid temporary use permit pursuant to TCDC 18.440.

(Ord. 88-13 §1; Ord. 07-15 ; Ord. 20-03 §3)

§ 5.04.040. Prohibited Business Operation.

It shall be unlawful for any persons, either directly or indirectly, to engage in any business without having first obtained a business license and where applicable, a Home Occupation Permit and paying the business license fee as prescribed by this chapter.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.050. One Act Constitutes Doing Business.

For the purpose of this chapter, any persons shall be deemed to be engaging in business or engaging in nonprofit enterprise, and thus subject to the requirements of Section 5.04.040, when undertaking one of the following acts:

1. Selling any goods or service;
2. Soliciting business or offering goods or services for sale, hire, trade or barter;
3. Acquiring or using any vehicle or any premises for business purposes in the city.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.060. Agents Responsible for Obtaining a Business License.

The agents, representatives or other responsible parties doing business in the city shall be personally responsible for the compliance of their principals and of the businesses they represent with the provisions of this chapter.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.070. Separate License for Branch Establishments and Multiple Locations.

If any person engages in business in more than one location in the city, a business license

fee shall be paid in the manner prescribed in this chapter for each branch establishment or location of the business engaged in, as if each such branch establishment or location were a separate business; provided, that warehouses and distributing plants used in connection with and incidental to a business licensed under the provisions of this chapter shall not be deemed to be separate places of business or branch establishments. Separately franchised operations shall be deemed separate businesses even if operated under the same name.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.080. Rental Real Property.

Each rental real property shall be deemed a branch establishment or separate place of business for the purposes of this chapter when there is a representative of the owner or the owner's agents on the premises who is authorized to transact business for each owner or owner's agent, or there is a regular employee of the owner or of the owner's agent working on the premises.

(Ord. 88-13 §1)

§ 5.04.090. Multiple Businesses at Same Location.

A person engaged in two or more businesses at the same location shall not be required to pay separate business license fees for conducting each such business; but, when eligible, shall be issued one business license which shall specify on its face all such businesses.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.100. No Business License Required.

Notwithstanding the requirements of this chapter, the following shall not be required to apply for and obtain a business license:

1. No business license shall be required for any person for any mere delivery in the city of any property purchased or acquired in good faith from such person at the regular place of business outside the city.
2. Minors engaged in babysitting, delivery of newspapers, mowing lawns, washing cars, and similar activities.
3. City sponsored events.
4. Casual or isolated sales (i.e., garage or moving sales) made by persons who are not engaged in the business of selling the type of property involved, provided that no more than four such sales are made annually and last no longer than three days at a time.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.110. Business License Required but Exempt from Business License Fee.

- A. A non-profit business is required to obtain a business license, but is exempt from the business license fee. The city will issue a business license, without requiring the payment of any business license fee therefor to any persons or organization for the conduct or operation of a nonprofit enterprise, either regular or temporary, when the city finds that the applicant operates without private profit, for a public, charitable, educational, literary, fraternal or religious purpose. A person or organization operating under nonprofit exemption must operate the nonprofit enterprise in compliance with the provisions of this chapter and all other applicable rules and regulations.

B. A business that fulfills the requirements below may be exempt from the city's business license fee for one year.

1. To be eligible for the exemption, a business owner must provide proof of successful completion of a business assistance program, financial education workshop, or recurring advising relationship in either the six-month period before the business is required to apply for a business license or during the business' first year operating in the city. An eligible and credible business advising partner must be approved by the City of Tigard's economic development manager.
2. A business that completes an eligible business assistance program in the six months before the business is required to apply for a business license, may be exempt from its first year's business license fee if approved by the economic development manager.
3. A business that completes an eligible business assistance program during its first year operating in the city, and has not already received an exemption, maybe exempt from its second year's business license fee if approved by the economic development manager.

(Ord. 88-13 §1; Ord. 07-15 ; Ord. 21-02 §1)

§ 5.04.120. Issuance of Business License.

- A. The city shall collect all business license fees and shall issue business licenses under the provisions of this chapter. The city shall promulgate and enforce rules and regulations necessary for the operation and enforcement of this chapter. Such rules shall be available to the public upon request.
- B. Businesses which constitute a home occupation pursuant to TCDC 18.760 must have a valid home occupation permit prior to the issuance of a business license. All other business licenses will be issued upon written application and receipt of the applicable fee by the city.
- C. A duplicate business license shall be issued by the city to replace any business license previously issued which has been lost, stolen, defaced, or destroyed, without any willful conduct on the part of the licensee upon the filing by the licensee of a statement attesting to such a fact and paying the city the fee as provided in the city's fee schedule.

(Ord. 88-13 §1; Ord. 07-15 ; Ord. 20-03 §4)

§ 5.04.130. Procedure for Obtaining a Business License.

- A. All business licenses shall be issued upon written application and receipt of the applicable fee by the city.
- B. The business license application shall be completely filled out before a business license is issued.
- C. An applicant seeking an exemption under Section 5.04.110 shall submit an application therefor to the city upon the prescribed forms, and shall furnish such additional information and make such affidavits as the city shall require.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.140. Display.

Upon payment of the business license fee a person shall be issued a business license by the city, which shall be kept posted in a conspicuous place on the business premises at all times. If there is no physical structure on which to display the business license, the business license shall be in the possession of the representative of the business present within the city at all times during which business is being transacted.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.150. Reissue of Business License.

A business license may be reissued if incorrect information is recorded on the license as provided below:

1. If the reissue is the result of incorrect information due to an error by the city or a city employee, there will be no fee.
2. If the reissue is the result of incorrect information due to an error by the applicant or an agent of the applicant, a reissue fee in the same amount as the initial issue fee will be required.
3. If a business licensee relocates during the calendar year, city files will be updated but a new business license will not be issued until the next renewal business license is issued.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.155. Change in Business Ownership.

If a person transfers or assigns a business for which a license has been paid, the license is transferable to the new owner after the receipt of a change of ownership fee. The change of ownership fee shall be established by resolution as provided for under Section 5.04.160. The new owner shall inform the city of the change in ownership by paying the change in ownership fee and filing a new license application, but shall not have to pay an additional business license fee for that business license year. The new owner will retain the old license number for the remainder of the business license year. A change in the name of the business or change in the location of the business shall require a new business license application and an additional business license fee.

(Ord. 07-15)

§ 5.04.160. Fee Schedule.

1. All fees shall be set by resolution of the City Council.
2. The business license year shall be from January 1st to December 31st.
3. A business license will be valid from the date of issue through December 31st of that year.
4. The business license fee shall be paid annually in advance of the business license year. For businesses starting after January 1st of any year, the business license fee shall be paid within one month of commencing business. Businesses shall be liable for the license fee from the date they commence doing business within the city and not from the date that the license fee is paid or business license application is submitted.
5. The initial business license fee for an annual business license can be made at any time.

There after the annual business license fee shall be due in full every January 1st. If a person engages in business at any time on or after July 1st of a business license year, the fee for such business license shall be equal to one-half the business license fee set forth in subsection 1 above. Irrespective of when during the period from January 1st to December 31st of such license year such person engaged in business, and each applicant must pay the full or partial fee for the current license year or any portion thereof during which the applicant has engaged in business.

6. There will be no business license fee refunds for businesses that cease operation or move out of the city during the business license year.

(Ord. 88-13 §1; Ord. 02-05 ; Ord. 07-15)

§ 5.04.165. Renewal.

Application for renewal of all business licenses shall be made on or before December 31st of the year following the year of issuance, and each succeeding year, if the business is to be continued. Application for renewal shall be made on forms prescribed by the city manager or designee. A business which has an existing business license, and which has applied for renewal of such license on or before December 31st of the license year, may remain in business under its exiting license until such time as the renewal license is either approved or denied.

(Ord. 07-15)

§ 5.04.170. Commercial Crime Unit.

The city shall establish within the Police Department a Commercial Crime Unit. The additional revenue generated above the current annual projected revenue of \$206,000 per year, shall be dedicated to the creation and the annual operating budget for a Commercial Crime Unit.

(Ord. 07-15)

§ 5.04.173. Temporary Business.

1. A temporary business as defined in Section 5.04.030, must comply with all regulations in this chapter.
2. The business license fee for a temporary business shall be set by resolution of the City Council. A business license for a temporary business shall be valid until the initial temporary use permit expires. Any extension or renewal of a temporary use permit shall require an additional business license fee payment.

(Ord. 88-13 §1; Ord. 02-05 ; Ord. 07-15)

§ 5.04.180. Administration and Enforcement.

The city is authorized to conduct inspections to insure the administration and enforcement of this chapter. The Code Enforcement Officer(s) shall be responsible for the enforcement of this chapter.

(Ord. 88-13 §1)

§ 5.04.190. Penalties.

1. Violation of this chapter shall constitute a Class 2 civil infraction which shall be processed according to the procedures established in Chapter 1.16, Civil Infractions of this code.

2. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.
3. A finding that a person has committed a civil infraction in violation of this chapter shall not act to relieve the person from payment of any unpaid business license, including delinquent charges, for which the person is liable. The penalties imposed by this section are in addition to and not in lieu of any remedies available to the city.
4. Payment of the business license fee after the complaint and summons is served is not a defense.
5. Any applicant or licensee who fails to make an application for an initial business license, or for renewal of an existing business license along with the appropriate fee for the business license year, prior to the delinquency date as provided below shall be subject to a penalty. For the renewal of an existing business license, the business license fee shall be deemed delinquent if not paid by January 1st of the applicable business license year. If a person begins engaging in business after the start of the business license year, the license fee shall be deemed delinquent if the fee is not paid within 30 days after commencement of the business activity. Whenever the license fee is not paid on or before the delinquent date a penalty of 10% of the license fee due and payable shall be added for each calendar month or fraction thereof that the fee remains unpaid. The total amount of the delinquency penalty for any business license year shall not exceed 100% of the business license fee due and payable for such year.
6. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter.

(Ord. 88-13 §1; Ord. 07-15)

§ 5.04.200. Rate Review and Adjustment.

Adjustments in the administration and enforcement portion of this chapter may be made by the City Council following a cost analysis to occur annually during the budget cycle and in conformance with Chapter 3.32 of this code.

(Ord. 88-13 §1; Ord. 07-15)

CHAPTER 5.12 CABLE SYSTEM

§ 5.12.010. Short Title.

This chapter shall be known and referred to as the Tigard cable system ordinance.

(Ord. 79-84 §1; Ord. 01-20)

§ 5.12.020. Definitions.

Cable System. As used in this chapter, "cable system" or "system" means a system of antennas, cables, amplifiers, closed transmission paths and associated signal generation, reception, and control equipment, microwave links, cablecasting studios, and any other conductor, converters, equipment or facilities designed and constructed for the purpose of producing, receiving, amplifying, storing, processing, or distributing audio, video, digital or other forms of electronic or electrical signals. It does not include a facility that does not use public right of way or public land or facilities to serve subscribers.

Franchise. As used in this chapter, the term "franchise" means the non-exclusive revocable privilege conferred upon a person, firm or corporation by the City to construct or operate a cable system under the terms and provisions of this chapter, whether in the form of a franchise, license, or similar agreement.

Franchisee. Any individual, natural person, sole proprietorship, partnership, association, or corporation or any other form of entity or organization granted a franchise.

PEG Access. Noncommercial use of the system for use by agencies, institutions, organizations, groups, and individuals in the community to acquire, create, receive, and distribute services and signals including but not limited to public, education, and government use.

(Ord. 79-84 §2; Ord. 01-20)

§ 5.12.030. Declaration of Powers.

The City, by and through its Council, recognizes, declares and establishes its authority to regulate the development and operation of a cable system (hereinafter "system") for the City and to exercise all powers necessary for that purpose, including, but not limited to, the following:

1. To grant by resolution nonexclusive, revocable franchises, licenses, contracts or similar agreements for the development and operation of a system or systems;
2. To contract, jointly agree or otherwise provide with other local and regional governments, counties or special districts for the development, construction, operation, and regulation of a system or systems or franchises therefor, notwithstanding the fact that the system extends beyond the boundaries of the City;
3. To create local improvement districts for the development or extension of a system, and to provide for the undergrounding of the system as a local improvement, as that term is now or hereafter defined by Oregon Revised Statutes, Chapter 223, or City ordinances;
4. To purchase, hire, construct, own, maintain, and operate or lease a system and to acquire property necessary for any such purpose;
5. To administer and regulate a system, including but not limited to:

- (a) Consumer complaints,
- (b) Disputes among the City, franchisees, and consumers,
- (c) Fair employment practices,
- (d) Development, management and control of government access channels as well as development of other access channels, or contracting for this service,
- (e) Rates regulation and review of finances for rate adjustments, as allowed by federal and state laws and rules,
- (f) Construction timetables and standards,
- (g) Modernization of technical aspects,
- (h) Ensuring adherence to federal and state regulations,
- (i) Franchise transfer and transfer or change of control of ownership,
- (j) Franchise renewal or revocation,
- (k) Enforcement of buy-back, lease back sale or other options to purchase, and
- (l) Receivership and foreclosure procedures.

(Ord. 79-84 §3; Ord. 01-20)

§ 5.12.040. Selection of Franchise.

1. In the event that the Council finds it in the best interests of the City to grant a franchise for a system, the City Manager or designate shall be directed to prepare a request for proposal (hereafter referred to as an "RFP").
2. The City Manager or designate shall prepare an evaluation of the proposals received, and shall submit the evaluation to the Council together with any recommendations. The evaluation shall be made available to the public for inspection.
3. The Council may award a franchise to an applicant only after a public hearing on the application and proposal, notice of which shall be published in a local newspaper of general circulation in the City at least ten days prior to the date of the hearing. All applicants shall be notified by mail of the public hearing; provided, however, that no defect in the notice or failure to notify shall invalidate the franchise awarded.
4. No franchise or award thereof shall be deemed final until passage of a resolution containing the terms and conditions thereof. The franchisee shall bear the costs of all publications and notices given in connection with the award of the franchise.

(Ord. 79-84 §4; Ord. 01-20)

§ 5.12.050. Administration of Cable System Ordinance and Franchise.

The City Council shall have the power(s) to carry out any or all of the following functions:

1. Review all franchisee records required by the franchise and, at the City Council's discretion, require the preparation and filing of additional information;

2. Conduct evaluations of the system at least every three years with the franchisee, and pursuant thereto, this chapter or the franchise agreement;
3. Pass regulations and procedures necessary to enforce franchises and to clarify terms thereof.
4. Take any other actions it deems necessary to ensure provision of quality cable services to the citizens of Tigard.

(Ord. 79-84 §5; Ord. 01-20)

§ 5.12.060. Violation, Penalties and Remedies.

1. Operation Without Franchise. Any person or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any provision of this chapter or performing any of the acts and/or functions itemized under subsection (2) of Section 5.12.020, which defines a cable system, without having been awarded a franchise to perform said acts or functions pursuant to the terms of this chapter shall be deemed to have committed a class A misdemeanor. Each violation occurring on a separate day is considered a separate violation of this chapter.
2. Injunctive Relief. Upon authorization by the City Council, the City Attorney may institute a suit in equity in the Circuit Court of the state or other appropriate court to enjoin the continued violation of any provision of this chapter.
3. Cumulative Remedies. The rights, remedies and penalties provided in this section are cumulative and not mutually exclusive and are in addition to any other rights, remedies and penalties available to the City under any other ordinance or law.

(Ord. 79-84 §7; Ord. 01-20)

CHAPTER 5.16 SOUND TRUCKS

§ 5.16.010. Definitions.

For the purposes of this chapter, the words set out in this section shall have the following meanings:

"Person" includes the singular and the plural and also means and includes any person, firm, corporation, association, club, partnership, society or any other form of association or organization.

"Sound amplifying equipment" means any machine or device for the amplification of the human voice, music or other sound. "Sound amplifying equipment" shall not be construed as including standard automobile radios when used and heard only by occupants of the vehicle in which installed or warning devices on authorized emergency vehicles or horns or other warning devices on other vehicles used only for traffic safety purposes.

"Sound truck" means any motor vehicle, horse-drawn vehicle or other vehicle having mounted thereon, or attached thereto, any sound amplifying equipment.

(Ord. 81-33 §1)

§ 5.16.020. Use of Sound Trucks—Registration Statement.

No person shall use, or cause to be used, a sound truck with its sound amplifying equipment in operation in the City of Tigard before filing a registration statement in writing with the City Recorder. This registration statement shall be filed in duplicate and shall state the following:

- (1) Name and home address of applicant;
- (2) Address of place of business of applicant;
- (3) License number and motor number of the sound truck to be used by applicant;
- (4) Name and address of person who owns the sound truck;
- (5) Name and address of person having direct charge of the sound truck;
- (6) Names and addresses of all persons who will use or operate the sound truck;
- (7) The purpose for which the sound truck will be used;
- (8) A general statement as to the section or sections of the City in which the sound truck will be used;
- (9) The proposed hours of operation of the sound truck;
- (10) The number of days of proposed operation of the sound truck;
- (11) A general description of the sound amplifying equipment which is to be used;
- (12) The maximum sound producing power of the sound amplifying equipment to be used in or on the sound truck, including the following:
 - (A) The wattage to be used,

- (B) The volume in decibels of the sound which will be produced,
 - (C) The approximate maximum distance for which sound will be thrown from the sound truck.
- (Ord. 81-33 §2)

§ 5.16.030. Use of Sound Trucks—Registration Statement Amendment.

All persons using or causing to be used, sound trucks, shall amend any registration statement filed pursuant to Section 5.16.020 within forty-eight hours after any change in the information therein furnished.

(Ord. 81-33 §3)

§ 5.16.040. Use of Sound Trucks—Registration and Identification.

The City Recorder shall return to each applicant under Section 5.16.020, one copy of the registration statement duly certified by the City Recorder as a correct copy. The certified copy of the application shall be in the possession of any person operating the sound truck at all times while the truck's amplifying equipment is in operation and it shall be promptly displayed and shown to any policeman of the City of Tigard upon request.

(Ord. 81-33 §4)

§ 5.16.050. Use of Sound Trucks—Regulations for Use.

Use of sound trucks in the City of Tigard with sound amplifying equipment in operation shall be subject to the following regulations:

- (1) The only sounds permitted are music or human speech;
- (2) Operations are permitted for four hours each day, except on Sundays and legal holidays when no operations shall be authorized. The permitted four hours of operation shall be between the hours of eleven thirty a.m. and one thirty p.m. and between the hours of four thirty p.m. and six thirty p.m.;
- (3) Sound amplifying equipment shall not be operated unless the sound truck upon which such equipment is mounted is operated at a speed of at least ten miles per hour except when said truck is stopped or impeded by traffic. The sound amplifying equipment must be operated by a person other than the driver of the sound truck;
- (4) Sound shall not be issued within two hundred feet of hospitals, churches or schools;
- (5) No sound truck with its amplifying device in operation shall be operated on the following streets between the points designated:
 - (A) Pacific Highway (99W), between 64th and Durham Road,
 - (B) Hall Boulevard, between Durham Road and Highway 217 overpass,
 - (C) Greenburg Road, between Pacific Highway (99W) and Highway 217,
 - (D) McDonald Street, between Hall Boulevard and Pacific Highway (99W),
 - (E) Durham Road, between Hall Boulevard and Pacific Highway (99W);

- (6) The human speech and music amplified shall not be profane, lewd, indecent, or slanderous;
 - (7) The volume of sound shall be controlled so that it shall not exceed sixty DBA at any distance one hundred feet or more from the sound truck, and so that the volume is not unreasonably loud, raucous, jarring, disturbing or a nuisance to persons within the area;
 - (8) No sound amplifying equipment shall be operated with an excess of fifteen watts of power in the last stage of amplification.
- (Ord. 81-33 §5)

§ 5.16.060. Penalties for Violations.

Violation of this chapter is a Class C misdemeanor.

(Ord. 81-33 §6)

CHAPTER 5.20
LIQUOR LICENSE APPLICATION PROCESS

§ 5.20.010. Review of Applications.

Review of all new liquor license applications and annual renewal applications shall be made by the Tigard Chief of Police. Applications for all reviews shall be made thirty days prior to initial use or expiration date of licenses.

(Ord. 87-72 §1)

§ 5.20.020. Temporary Liquor License—Time Limitation.

Application for all temporary liquor licenses shall be made to the Chief of Police. All temporary liquor licenses shall be in effect for not more than one twenty-four-hour period.

(Ord. 78-25 §2; Ord. 87-72 §1)

§ 5.20.040. Appeal Process.

In the event the Chief of Police issues a recommendation of denial to the Oregon Liquor Control Commission (OLCC), he or she shall first notify the applicant in writing of his intent to issue a recommendation of denial within three working days of receipt of the application. The notification shall include the reason(s) for the intent to recommend denial and a date and time within the next five working days to hear the applicant's appeal, if any. The applicant shall have the right to be heard and to present witnesses and evidence purporting to refute the reasons given by the Chief of Police for a recommendation of denial. The hearing shall be administrative in nature and held before the Chief of Police. Rules of evidence shall not apply. Upon completion of the hearing, the Chief of Police shall make a finding and shall mail the final recommendation to the OLCC and the applicant within three working days of the hearing date.

(Ord. 87-71 §1)

CHAPTER 5.22 SOCIAL GAMES

§ 5.22.010. Definitions.

As used in this chapter,

"Chief of police" or "chief" means the Chief of the Tigard Police Department or designee.

"Social game" means a game, other than a lottery, between players in a private business, private club, or place of public accommodation (such business, club, or place of public accommodation collectively referred to herein as "business") where no house player, house bank, or house odds exist, and there is no house income from the operation of the social game.

(Ord. 13-11 §1)

§ 5.22.020. Social Games—Authorization and Conditions.

A "social game" as defined in Section 5.22.010 of this chapter is allowed only when each of the following conditions is met:

- A. The owner of the business where social games are being played holds a current, valid license to play social games issued by the city;
- B. No house player, house bank, or house odds exist;
- C. There is no house income from the operation of a social game;
- D. A business may not charge an entrance or access fee of any kind, including, but not limited to, a cover charge or door fee, on days when social games are being played in the business;
- E. The social game cannot be observed from a public right-of-way;
- F. Persons under 21 years of age are not permitted in the room or enclosure where the social game takes place;
- G. The room or enclosure where the social game takes place is open to free and immediate access by any police officer. Doors leading into the social game room must remain unlocked during all hours of operation;
- H. No owner or principal managing employee, as described in more detail below, shall participate in any social game on the premises;
- I. A charge for consumer goods sold on the premises to an individual playing a social game must not be higher or lower than the price charged to a non-participant in the social game;
- J. No owner or principal managing employee may accept any payment, fee, service or gratuity from a social game participant as consideration for participation in the social game on the premises;
- K. No owner or principal managing employee may charge a rental or lease fee for the use of the social game;
- L. At no point in time may a social game be conducted without an owner or principal managing employee present;

- M. No membership fee or cover fee may be charged for participation in the social game; and
 - N. All social gaming activities and the business where social gaming is permitted must comply with applicable federal, state and local laws and regulations.
- (Ord. 13-11 §1)

§ 5.22.030. Responsibilities of Owner and Person in Charge.

An owner or person in charge of a business where social gaming is permitted shall:

- A. Clearly designate the areas set aside for social gaming.
- B. Designate an agent or employee to act as person in charge of a social gaming premises whenever social games are being played. An owner shall be strictly liable for any violation of this chapter which occurs when no person in charge is present at the social gaming premises.
- C. Be strictly liable for any violation of the provisions of this chapter by a person in charge, agent, employee or designate.
- D. Limit hours of operation of social gaming activities on the premises to those hours during which the primary business is open.
- E. Limit social gaming activities to no more than 50% of the floor area of the premises. Social gaming may occur seven days per week. For purposes of this provision, "floor area" means gross floor area excluding areas such as kitchen, storage, restrooms, hallways, mechanical spaces, elevators, stairwells and loading docks.

(Ord. 13-11 §1)

§ 5.22.040. Inspection of Social Games Premises.

All persons who authorize social games on premises owned or managed pursuant to this chapter shall permit entry to premises to any member of the police department, upon presentation of official identification, for the limited purpose of inspecting the premises and any activities, records, or devices involved in such games to ensure compliance with the Tigard Municipal Code.

(Ord. 13-11 §1)

§ 5.22.050. Notice of Social Games Required.

Where social games are conducted, each owner or person in charge of the premises shall continuously and conspicuously post notice that is clearly readable and in letters at least one-inch high that such games must be conducted in accordance with the conditions set forth in Section 5.22.020 which shall be listed in their entirety. The form and content of the notice required pursuant to this section shall be as approved by the chief to assure uniformity of notices in establishments allowing social gaming.

(Ord. 13-11 §1)

§ 5.22.060. License; License Fee; Civil Penalties.

- A. Application for an annual social gaming license shall be made to the police chief. The chief may assess a license fee of \$100 per year. The social gaming license fee is due in full every

January 1st. If a business applies for a social gaming license at any time on or after July 1st, the fee for such license shall be equal to one-half the license fee.

- B. The chief may assess a fine for operating without a license of \$500 for the first violation for each year, and a subsequent violation will result in a fine of \$1,000.
- C. Violations for all other offenses of this chapter are \$100 for the first offense each calendar year; \$250 for the second offense; \$500 for the third offense and \$1,000 for all additional violations during the same calendar year.

(Ord. 13-11 §1)

§ 5.22.070. Appeal Process for License Denial.

In the event the chief of police denies an applicant a social gaming license, the chief of police shall first notify the applicant in writing of his or her intent to deny the license within three working days of receipt of the application. The notification shall include the reason(s) for the denial and a date and time within the next five working days to hear the applicant's appeal, if any. The applicant shall have the right to be heard and to present witnesses and evidence purporting to refute the reasons given by the chief of police for a denial. The hearing shall be administrative in nature and held before the chief of police. Rules of evidence shall not apply. Upon completion of the hearing, the chief of police shall make finding and shall mail the final decision to the applicant within three working days of the hearing date.

(Ord. 13-11 §1)

§ 5.22.080. Appeal Process for Assessment of Fine.

In the event the chief of police assesses a business owner with a fine, the chief of police shall notify the business owner in writing of the fine assessment. The notification shall include the reason(s) for the fine assessment and a date and time within the next five working days to hear the business owner's appeal, if any. The business owner shall have the right to be heard and to present witnesses and evidence purporting to refute the reasons given by the chief of police for a denial. The hearing shall be administrative in nature and held before the chief of police. Rules of evidence shall not apply. Upon completion of the hearing, the chief of police shall make finding and shall mail the final decision to the business owner within three working days of the hearing date.

(Ord. 13-11 §1)

CHAPTER 5.24 TRANSPORTATION NETWORK COMPANIES

§ 5.24.010. Purpose.

The City Council of the City of Tigard finds and declares that the purpose of this chapter is to promote the safety and welfare of the general public by regulating transportation network companies and their drivers within the city, as authorized by ORS 221.485 and 221.495. Nothing contained in this chapter is intended or may be construed to create any liability on the part of the city, its officers, or employees for any injury or damage related to any provision of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the city, its officers, or employees.

(Ord. 21-07 §1)

§ 5.24.020. Definitions.

"City" means the City of Tigard, Oregon.

"Transportation network company (TNC)" means any entity or organization, whether a corporation, partnership, or sole proprietor, that connects passengers with affiliated TNC drivers and TNC vehicles through an Internet-based digital or software platform/application operated by the TNC.

"Transportation network company (TNC) driver" means any individual operating a private for-hire transportation vehicle who connects with passengers through an Internet-based digital or software platform/application operated by an affiliated TNC.

"Transportation network company (TNC) services" means any private for-hire transportation offered or provided to passengers for compensation by a TNC driver and TNC vehicle on behalf of or by an affiliated TNC.

"Transportation network company (TNC) vehicle" means any vehicle driven by a TNC driver to offer and/or provide TNC services.

(Ord. 21-07 §1)

§ 5.24.030. TNC Permit Required—Fees.

- A. A transportation network company providing services in the City of Tigard is required to obtain a permit. The city or its designee will certify that all affiliated TNC vehicles and TNC drivers have met all certification and operating requirements. No TNC may conduct business in the city without a valid, current permit issued by the city or its designee.
- B. Permit Fee. A TNC must pay the city a 50¢ fee per trip originating within the City of Tigard. Revenue generated by fees shall be restricted to city service areas impacted by the operation of TNCs or involved in the regulation and administration of TNC policy including public safety, transportation planning, transportation engineering, transportation capital improvements, and code enforcement; wheelchair accessible vehicle and electric vehicle infrastructure programs; and for costs of administering the program.
- C. Permit Issuance. The city or its designee will not issue permit to a TNC until all applicable surcharges, fees, civil penalties, and fines have been paid.

(Ord. 21-07 §1)

§ 5.24.040. Certification Requirements.

- A. TNC Company Certification Requirements. No person or entity may conduct business as a TNC in the City of Tigard without certification by the city or its designee. TNCs not meeting all required standards, conditions and operating requirements will not be certified as a TNC, may not be issued a permit, and may not operate as a TNC.
- B. TNC Driver Certification Requirements. No person or entity may conduct business as a TNC driver in the City of Tigard without certification by the city or its designee prior to being activated on the affiliated TNC platform. Drivers not meeting all required standards, conditions, conduct and operating requirements will not be certified as a TNC driver and may not operate as a TNC driver.
- C. TNC Vehicle Certification Requirements. No vehicle is allowed to operate as a TNC vehicle in the City of Tigard without certification by the city or its designee prior to being activated on the affiliated TNC platform. Vehicles not meeting all required standards, conditions and operating requirements will not be certified as TNC vehicle and may not operate as a TNC vehicle.

(Ord. 21-07 §1)

§ 5.24.050. TNC Certification Requirements.

- A. Application. An applicant for a TNC permit must annually submit to the city or its designee an application on a form approved by the city. The information requested must comply with Portland City Code Section 16.40.210 as adopted and hereafter amended.
- B. Compliance with Secretary of State's Rules. No permit will be issued unless the company is validly registered with the Secretary of State, including all assumed business names.
- C. Insurance. All TNC permit holders must comply with TNC insurance requirements pursuant to Section 5.24.060. All TNCs must file a certificate of liability and applicable endorsements with the city that evidences insurance coverage and terms that are in compliance with the requirements.
- D. Review Process. After receiving a completed TNC application form and upon successful completion of all applicable requirements, the city or its designee will review the application to make a recommendation for approval or denial.
- E. Application Approval. Upon approval, a TNC permit may be issued and will be valid for a period of up to one year from the date of approval.
- F. Application Denial. An application will be denied for any of the reasons set forth in Portland City Code Section 16.40.210 as adopted and hereafter amended.
- G. Denial Appeal. If the application is denied, the applicant TNC may appeal the decision in accordance with Portland City Code Section 16.40.210 as adopted and hereafter amended.
- H. Providing TNC Services. TNC services may be provided only by a permitted TNC.
- I. Right to a Permit. The TNC's ability to satisfy the criteria for a TNC permit does not create a right to a TNC permit.
- J. Transferring Permits. Transferring or sale of permits is prohibited.

- K. Removal of TNC drivers and TNC vehicles from Affiliated TNC Platform. Each day, a TNC will provide to the city or its designee notification of affiliated TNC drivers and TNC vehicles that have been permanently deactivated from the TNC platform or prohibited from providing TNC services by the affiliated TNC.

(Ord. 21-07 §1)

§ 5.24.060. TNC Insurance Requirements.

- A. TNC Service Periods Defined. In order to provide protection to the public, the TNC will provide the levels of insurance as required by this section. TNC service is defined by three distinct periods:
1. Period 1: The TNC driver has logged into the app. The app is open and the driver is waiting for a match.
 2. Period 2: A passenger match has been accepted, the passenger is not yet picked up (i.e., the driver is on their way to pick up the passenger).
 3. Period 3: The passenger is in the vehicle and until the passenger exits the vehicle at the destination.
- B. Providing TNC Services. All periods of TNC service must be covered by a general commercial liability and primary automobile insurance policy provided by the TNC, the TNC driver, or a combination of both. Evidence of TNC insurance requirements must be received and approved by the city or designee prior to a TNC receiving a TNC permit.
- C. Additional Insured and Notification of Policy Changes. The TNC will provide certificates of insurance naming the City of Tigard, its officers, agents, and employees as an additional insured party and give at least 30 calendar days' notice to the city or its designee before a policy is canceled, expires, or has a reduction in coverage. Insurance coverage requirements include commercial general liability, primary commercial vehicle insurance, worker's compensation and employer's liability insurance (as required by state law).
- D. Ensuring Driver and Vehicle Insurance. TNC drivers are responsible for ensuring appropriate personal motor vehicle liability insurance required by state law.
- E. Required Insurance. TNC permit holders will secure and maintain a commercial general liability policy for covered claims arising out of, but not limited to, bodily injury and property damage, in the course of the permit holder's work under a TNC permit and automobile insurance. The required automobile liability policy must specifically recognize the driver's provision of TNC services or other for hire transportation and comply with the mandatory laws of the State of Oregon or other applicable governing bodies. In addition, all insurance coverages, policies, conditions, and requirements will comply with the provisions of Portland City Code Section 16.40.230 as adopted and hereafter amended.
- F. Certification of Auto Insurance. TNCs must provide proof of current, valid insurance for city certification covering all affiliated TNC drivers and vehicles operating for such company and satisfying the minimum requirements of Periods 1, 2 and 3 in the event the insurance maintained by the driver has lapsed or does not provide the required coverage.
- G. Continuous and Uninterrupted Coverage. The permit holder must maintain continuous, uninterrupted coverage for the duration of the permit. Any lapse in insurance coverage,

even if it is later backdated by the insurance company, is subject to a civil penalty or permit cancellation.

(Ord. 21-07 §1)

§ 5.24.070. TNC Operating Requirements—Prohibitions.

- A. Minimum Standards of Service. A permitted TNC must comply with the minimum standards set forth by the city which include, but are not limited to:
 1. A TNC app in operation 24 hours each day capable of providing reasonably prompt service in response to requests. It is a rebuttable presumption that any time beyond 30 minutes from the moment the passenger requests a ride using the TNC application, is unreasonable.
 2. Acceptance of any request for TNC service received from any location within the city including requests made by persons with disabilities and requests for wheelchair-accessible service pursuant to Section 5.24.080.
 3. The TNC app used to connect drivers to riders must display an accurate picture of the TNC driver and a picture or description of the type of TNC vehicle, as well as the license plate number of the TNC vehicle.
- B. Drug, Alcohol and Discrimination Policy.
 1. Zero Tolerance for Drug and Alcohol Use and Discrimination. All permitted companies will employ at all times a zero-tolerance policy for intoxicants.
 2. Zero-Tolerance for Discrimination. All permitted companies will adopt a policy that, at a minimum, prohibits drivers and employees from engaging in discrimination, to include making derogatory comments, on the basis of a person's race, religion, national origin, disability, sexual orientation, sex, marital status, gender identity, age, or any other characteristic protected under applicable local, state, or federal law. This policy must comply with Portland City Code Section 16.40.240 as adopted and hereafter amended.
- C. Limitation or Prohibition on Dynamic Pricing. The city may limit or prohibit dynamic pricing by any TNC or TNC driver during a State of Emergency, as declared pursuant to Chapter 7.74.
- D. Agent of Service Requirements. TNCs will maintain, during all times when the TNC permit is valid, a locally based agent of service, with regular hours of business during weekdays. TNCs will comply with all operational requirements, including prohibitions and data reporting, as set forth in Portland City Code Section 16.40.240 as adopted and hereafter amended.
- E. The TNC must notify the city of a known data security breach in the same manner as provided in ORS 646A.600 to ORS 646A.628.

(Ord. 21-07 §1)

§ 5.24.080. TNC Accessible Service Requirements.

TNCs will provide reasonable accommodations to passengers with disabilities, including to passengers accompanied by a service animal, passengers with hearing and visual impairments,

and passengers with mobility devices as provided by Portland City Code Section 16.40.290 as adopted and hereafter amended.

(Ord. 21-07 §1)

§ 5.24.090. TNC Driver Certification Requirements.

The TNC will provide a daily list of applicant drivers affiliated with the permitted TNC for certification by the city or its designee. Certifications for TNC drivers provided by a TNC shall be valid for one year from the date of the initial certification. Such requirements and certification process are set forth in Portland City Code Section 16.40.270 as adopted and hereafter amended. (Ord. 21-07 §1)

§ 5.24.100. TNC Driver Conduct and Operating Requirements.

- A. TNC drivers must comply with the conduct and operating requirements of Portland City Code Section 16.40.280 as adopted and hereafter amended.
- B. Mandatory Compliance. TNC drivers must submit to compliance audits and enforcement actions upon request by the city or its designee, any authorized city personnel, or law enforcement officers.

(Ord. 21-07 §1)

§ 5.24.110. TNC Vehicle Requirements.

- A. TNC vehicles must comply with the certification requirements of Portland City Code Section 16.40.250 as adopted and hereafter amended.
- B. TNC vehicles must comply with the vehicle operating requirements of Portland City Code Section 16.40.260 as adopted and hereafter amended.

(Ord. 21-07 §1)

§ 5.24.120. Intergovernmental Agreement—Effect of Local Regulations.

- A. The city may enter into an intergovernmental agreement (IGA) with the City of Portland (Portland) to perform any of the functions, tasks, and services necessary to carry out the provisions authorized by this chapter, either in full or in part. The terms of that agreement may not be construed as repealing any provision of this chapter.
 1. TNCs operating in the city will provide Portland all required ride data and driver information necessary to successfully certify and recertify city TNC drivers and issue TNC company permits, TNC driver and TNC vehicle certifications in conformance with Portland City Code Chapter 16.40, as adopted and hereafter amended. The city will receive ride data and driver information from Portland only as the data and information pertains to operations in Tigard pursuant to applicable data sharing agreement.
 2. The city will recognize all existing TNC drivers permitted to operate in Portland as permitted drivers, adopt the current dates for TNC driver certification and background check compliance for each permitted Portland TNC driver, and adopt the current permit status for each permitted TNC company.
 3. The city will recognize all existing TNC vehicles permitted to operate in Portland as

permitted vehicles, adopt the current dates for TNC vehicle certification, and adopt permit status for each permitted TNC vehicle.

4. The city will recognize all TNC companies permitted to operate in Portland as permitted TNC companies, adopt the current dates for the TNC company certificate, and adopt permit status for each permitted TNC company.
 5. TNC companies, TNC drivers, and TNC vehicles certified and recertified by Portland after the effective date of this chapter will be issued a permit authorizing the TNC driver, TNC vehicle, and TNC company to operate in the city so long as all applicable standards, conditions and operating requirements continue to be met.
- B. A TNC company that complies with the standards, conditions, and operating requirements set out in Portland City Code Chapter 16.40, as adopted and hereafter amended, will be deemed to be in compliance with the equivalent city provision set out in this chapter.
- (Ord. 21-07 §1)

§ 5.24.130. Enforcement.

Violation of this chapter is a Class 1 civil infraction.

(Ord. 21-07 §1)

NUISANCE VIOLATIONS

Title 6

NUISANCE VIOLATIONS

<p style="text-align: center;">Chapter 6.01 GENERAL PROVISIONS AND PENALTIES</p>	<p>§ 6.02.170. Storage in Front Yards.</p>	<p style="text-align: center;">Article III Junk, Garbage and Putrescible Waste</p>
<p>§ 6.01.010. Short Title.</p>	<p>§ 6.02.210. Vehicles Not to Drop Material on Streets.</p>	
<p>§ 6.01.020. Definitions.</p>	<p>§ 6.02.220. Open Storage of Junk.</p>	
<p>§ 6.01.030. Nuisances Designated—Class 1 Civil Infraction.</p>	<p>§ 6.02.230. Scattering Rubbish.</p>	
<p>§ 6.01.040. Penalty for Violation of this Title.</p>	<p>§ 6.02.240. Garbage and Putrescible Waste.</p>	
<p>§ 6.01.050. Administrative Rules.</p>	<p>§ 6.02.250. Offensive Wastes Prohibited.</p>	
<p>§ 6.01.060. Enforcement—Minimum Requirements.</p>	<p>§ 6.02.260. Unauthorized Deposits Prohibited.</p>	
<p style="text-align: center;">Chapter 6.02 NUISANCES AFFECTING PUBLIC HEALTH, SAFETY AND PEACE</p>		
<p style="text-align: center;">Article I General Nuisances</p>	<p>§ 6.02.310. Streets, Sidewalks, and Public Pedestrian Easements.</p>	<p style="text-align: center;">Article IV Streets, Sidewalks, and Public Pedestrian Easements</p>
<p>§ 6.02.010. Common Nuisances.</p>	<p>§ 6.02.320. Maintenance and Repair of Public Sidewalks and Public Pedestrian Easements.</p>	
<p>§ 6.02.020. Noxious Vegetation.</p>	<p>§ 6.02.330. Sidewalks, Public Pedestrian Easements, Curbs and Planter Strips.</p>	
<p>§ 6.02.030. Trees and Bushes.</p>		
<p>§ 6.02.040. Greenway Maintenance.</p>	<p>§ 6.02.340. Encroachments Within Rights-of-Way and Public Property.</p>	
<p>§ 6.02.050. Attractive Nuisances.</p>		
<p>§ 6.02.060. Graffiti.</p>		
<p style="text-align: center;">Article II Property Development and Maintenance Requirements</p>		
<p>§ 6.02.100. Violation of Title Prohibited.</p>		<p style="text-align: center;">Article V Noise Nuisances</p>
<p>§ 6.02.110. Conditions of Approval.</p>		
<p>§ 6.02.120. Visual Clearance Requirements.</p>	<p>§ 6.02.410. Prohibition on Excessive Noise.</p>	
<p>§ 6.02.130. Fences and Walls.</p>	<p>§ 6.02.420. Sound Measurement.</p>	
<p>§ 6.02.140. Accessory Structures.</p>	<p>§ 6.02.430. Noise Limits.</p>	
<p>§ 6.02.150. Insects and Rodents.</p>	<p>§ 6.02.440. Prohibited Noises.</p>	
<p>§ 6.02.160. Signs.</p>	<p>§ 6.02.450. Exceptions to Noise Limits.</p>	

§ 6.02.460.	Maximum Noise Limit for Certain Activities.	Chapter 6.03 PROPERTY IN THE RIGHT-OF-WAY
§ 6.02.470.	Evidence of Noise Violation.	
	Article VI Water Service and Meters	§ 6.03.010. Signs in the Right-of-Way. § 6.03.020. Abandoned Personal Property in the Right-of-Way.
§ 6.02.510.	Service Connection and Maintenance.	§ 6.03.030. City Authority to Remove. § 6.03.040. Notice Requirements. § 6.03.050. Exemption from Notice Requirements.
	Article VII Keeping Livestock	§ 6.03.060. Reclamation of Confiscated Personal Property and Signs.
§ 6.02.610.	Definitions.	§ 6.03.070. Disposal of Personal Property, Signs and Junk.
§ 6.02.620.	General Provisions.	§ 6.03.080. Appeal of Confiscation.
§ 6.02.630.	Keeping Livestock.	§ 6.03.090. Exemption for Criminal Investigation.

**CHAPTER 6.01
GENERAL PROVISIONS AND PENALTIES**

§ 6.01.010. Short Title.

The ordinance codified in this title shall be known as the "nuisance ordinance," and may also be referred to herein as "this title."

(Ord. 12-02 §1)

§ 6.01.020. Definitions.

As used in this title:

"Abandoned personal property" means any personal property, as the term is defined in this title, which has been discarded, deserted or relinquished.

Personal property shall be considered abandoned if any of the following conditions exist:

1. Personal property is left unattended in the right-of-way for more than five hours;
2. Personal property is placed in the right-of-way in a location or manner as to constitute a potential, imminent or immediate hazard or obstruction to pedestrian or vehicular traffic or to otherwise pose a threat to public health, safety or welfare.

"Abate" means to restore a property to its condition prior to the infraction, or similar condition that is free of the subject infractions. In the case of graffiti, "abate" means to remove graffiti from the public view.

"City manager" means the city manager or designee.

"Civil infraction" or "infraction" means the failure to comply with a provision of this title.

"Costs" means all expenses incurred and charges associated with any action taken by the city under this title including, but not limited to, the cost to the public of the staff time invested and, regarding items confiscated in violation of Sections 6.03.010 and 6.03.020, all expenses incurred and charges associated with the removal, storage, detention, processing, disposition and maintenance thereof.

"Dangerous building" means:

1. A structure that, for want of proper repairs, by reason of age and dilapidated condition, by reason of poorly installed electrical wiring or equipment, defective chimney, defective gas connection, defective heating apparatus or for any other cause or reason, is especially liable to fire, and that is so situated or occupied as to endanger any other building or property or human life;
2. A structure containing combustible or explosive material, rubbish, rags, waste, oils, gasoline or flammable substance of any kind, especially liable to cause fire or danger to the safety of the building, premises, or to human life;
3. A structure that is kept or maintained or is in a filthy or unsanitary condition, especially liable to cause the spread of contagious or infectious disease or diseases;

4. A structure in such weak, weakened, dilapidated or deteriorated condition as to endanger any person or property due to a probability of partial or entire collapse.

"Dispose of/disposal" means to get rid of and includes sell, auction, donate, destroy, repurpose and recycle.

"Graffiti" means any inscription, word, figure or design that is marked, etched, scratched, drawn or painted on any surface with paint, ink, chalk, dye, other similar substance or placement of stickers or appliques, regardless of content, without authorization from the responsible party for the property.

"Graffiti nuisance property" means a property upon which graffiti has been placed and for which a letter of complaint or notice of violation has been sent to the responsible party for the property consistent with Chapter 1.16 and on which the graffiti has been allowed to remain for more than the length of time specified in the letter or notice.

"Inoperable vehicle" means any vehicle which does not display a current state vehicle license or tags, which cannot be moved without being either repaired or dismantled, or which is no longer safely usable for the purposes for which it was manufactured.

"Junk" means items that have no apparent utility or are in an unsanitary condition.

"Noise-sensitive unit" shall include any building or portion of a building containing a residence, place of overnight accommodation, church, day care center, hospital, school or nursing care center. For the purpose of this definition, "residence" and "overnight accommodation" do not include living/sleeping quarters of a caretaker or watchperson on industrial or commercial property provided by the owner or operator of the industrial or commercial facility.

"Noxious vegetation" means:

1. Weeds more than 10 inches high;
2. Grass more than 10 inches high and not within the exception stated in paragraph 9 of this subsection;
3. Poison oak, poison ivy or similar vegetation;
4. Vegetation that is likely to cause fire;
5. Blackberry bushes that extend into a right-of-way or across a property line;
6. Vegetation that is a health hazard;
7. Vegetation that is a health hazard because it impairs the view of the right-of-way or otherwise makes use of the right-of-way hazardous;
8. Any of the following invasive and noxious plants: *Hedera helix* L. (English ivy), *Heracleum mantegazzianum* (giant hogweed), *Lythrum salicaria* L. (purple loosestrife), *Polygonum cuspidatum* (Japanese knotweed), *Rubus discolor* (Himalayan blackberry);
9. "Noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard, a fire hazard or a traffic hazard, and it is vegetation within the meaning of this subsection.

"Occupant" means any person, tenant, sub-lessee, successor or assignee that has control over property.

"Owner" means any person, agent, firm, corporation, unincorporated association, partnership, limited liability company or other entity having a legal or equitable interest in or a claim to a property and includes, but is not limited to, a mortgagor in possession, an occupant, or a person, agent, firm or corporation that owns or exercises control over items of property including abandoned personal property or a sign confiscated pursuant to this chapter.

"Permit" means to knowingly allow, suffer or acquiesce by any failure, refusal or neglect to abate.

"Person" means an individual human being and may also refer to a firm, corporation, unincorporated association, partnership, limited liability company, trust, estate or any other legal entity.

"Personal property" means tangible items, other than signs, as defined in this title, and vehicles which are reasonably recognizable as belonging to individual persons and which have apparent utility.

"Plainly audible" means any sound for which the information content of that sound is unambiguously communicated to the listener, including, but not limited to, understandable spoken speech, comprehensible musical rhythms or vocal sounds.

"Premises open to the public" means all public spaces including, but not limited to, streets, alleys, sidewalks, parks, rights-of-way and public open space, and private property onto which the public is regularly invited or permitted to enter for any purpose.

"Property" means any real or personal property including, but not limited to, items affixed or appurtenant to real property or premises, house, building, fence or structure and items of machinery, drop boxes, waste containers, utility poles and vaults and post office collection boxes.

"Responsible party" means any of the following:

1. An owner;
2. An entity or person acting as an agent for an owner by agreement that has authority over the property, is responsible for the property's maintenance or management, or is responsible for abating or remedying a nuisance;
3. Any person occupying the property, including bailee, lessee, tenant or other person having possession;
4. The person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed the object or allowed the object to exist on the property; or
5. A foreclosure or bankruptcy trustee.

There may be more than one party responsible for a particular property.

"Right-of-way" means a strip of land or structure occupied or intended to be occupied by a street, crosswalk, pedestrian or bike path, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, street trees or other special use and all other public ways and areas managed by the city.

"Sign" means any materials placed or constructed primarily to convey a message or other display and which can be viewed from the right-of-way, another property or from the air including any outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster or other

thing designed, intended or used to advertise or inform.

"Unauthorized" means without consent of the owner, occupant or responsible party.

"Unnecessarily loud" means any sound that interferes with normal spoken communication or that disturbs sleep.

"Violation" means failure to comply with a requirement imposed directly or indirectly by this title and may also mean civil infraction or infraction.

(Ord. 12-02 §1; Ord. 12-11 §1; Ord. 18-11 §1)

§ 6.01.030. Nuisances Designated—Class 1 Civil Infraction.

- A. Acts, omissions, conditions or objects specifically enumerated in this title are hereby declared to be a public nuisance.
- B. Violations of other titles of this code are likewise declared to be public nuisances unless otherwise characterized in their location in another title.
- C. In addition to nuisances specifically enumerated within this title, every other thing, substance or act which is determined by the council to be offensive, injurious or detrimental to the public health, safety or welfare of the city is declared to be a nuisance.

(Ord. 12-02 §1)

§ 6.01.040. Penalty for Violation of this Title.

- A. A violation of this title constitutes a Class 1 civil infraction, which will be processed according to procedures established in Chapter 1.16 of this code.
- B. Each violation of a provision of this title constitutes a separate infraction, and each day that a violation of this title is committed or permitted to continue constitutes a separate infraction.
- C. If more than one person is a responsible party, they are jointly and severally liable for abating the nuisance or for the costs incurred by the city in abating the nuisance.
- D. A finding of a violation of this title does not relieve the responsible party of the duty to abate the violation. Penalties imposed by this title are in addition to and not in lieu of any remedies available to the city.
- E. Each violation of a provision of this title is subject to the specific penalty or administrative fee established in Chapter 1.16 of this code.

(Ord. 12-02 §1; Ord. 19-03 §1)

§ 6.01.050. Administrative Rules.

- A. The city manager is authorized to draft and adopt administrative rules that establish:
 1. The types of signs exempted from the notice requirements of Section 6.03.040, based on the likelihood the sign will be reclaimed, which may take into consideration the value of the materials and condition of the sign;
 2. Standards and methods for recording information about signs and personal property confiscated in the right-of-way, including a description of the sign or personal

property, the location from which it was confiscated and the date and time of the confiscation;

3. Procedures by which owners of confiscated personal property or signs can reclaim the items;
4. A fee schedule for violations of Chapter 6.03 and the recovery of costs associated with confiscation and reclamation of personal property or signs confiscated in the right-of-way.

B. Such administrative rules shall be adopted pursuant to the provisions of Chapter 2.04.
(Ord. 12-02 §1)

§ 6.01.060. Enforcement—Minimum Requirements.

- A. The provisions of this title are declared to be minimum requirements.
 1. In their interpretation and application, the provisions of this title shall be held to be minimum requirements, adopted for the protection of the public health, safety and general welfare.
 2. When requirements of this title vary from other provisions of this title or with any other title of the Tigard Municipal Code or Oregon Revised Statutes, the most restrictive or that imposing the highest standard shall govern.
- B. A finding of a violation of this title which results in confiscation of personal property or signs does not prevent the city from additionally issuing citations for violations of this title or any other title of the Tigard Municipal Code or Oregon Revised Statutes for the same property or incident.
- C. This section shall not be read to prohibit any alternative remedies set out in this title or any other title of the Tigard Municipal Code or Oregon Revised Statutes which are intended to abate or alleviate code violations, nor shall the city be prevented from recovering, in any manner prescribed by law, any expense incurred by it in abating or removing ordinance violations pursuant to any code provision.

(Ord. 12-02 §1)

**CHAPTER 6.02
NUISANCES AFFECTING PUBLIC HEALTH, SAFETY AND PEACE**

**Article I
General Nuisances**

§ 6.02.010. Common Nuisances.

No person shall cause or permit a nuisance affecting the public health. The following are nuisances affecting the public health:

- A. An open vault or privy constructed and maintained within the city, except those constructed or maintained in connection with construction projects in accordance with the State Health Division regulations.
 - B. Accumulations of debris, rubbish, manure or other refuse that affect the health of surrounding persons.
 - C. Stagnant water that affords a breeding place for mosquitoes and other insect pests.
 - D. Pollution of a body of water, well, spring, stream or drainage ditch by sewage, industrial wastes or other substances placed in or near the water in a manner that will cause harmful material to pollute the water.
 - E. Any animal, substance or condition on the premises that is in such a state or condition as to cause an offensive odor detectable at a property line, or that is in an insanitary condition.
 - F. Drainage of liquid wastes from private premises.
 - G. Cesspools or septic tanks that are in an unsanitary condition or which cause an offensive odor.
 - H. Animals, including livestock, or buildings for the purpose of maintaining livestock or animals, maintained in such places or in such a manner that they are offensive or annoying to the residents within the immediate vicinity, or maintaining the premises in such a manner as to be a breeding place or likely breeding place for rodents, flies and other pests.
 - I. An animal carcass permitted to remain on public property or to be exposed on public property for a period of time longer than is necessary to remove or dispose of the carcass.
 - J. Maintenance on private property of a dangerous building.
- (Ord. 12-02 §1)

§ 6.02.020. Noxious Vegetation.

- A. No responsible party shall allow noxious vegetation as defined in Sections 6.01.020.M.1 through 6.01.020.M.7 to be on the property or in the right-of-way abutting the property.
- B. The responsible party for a violation of subsection A of this section shall cut down or destroy grass, shrubbery, brush, bushes, weeds or other noxious vegetation as often as needed to prevent them from becoming unsightly or, in the case of weeds or other noxious vegetation, from maturing or from going to seed.
- C. No responsible party shall plant or allow to be planted on their property noxious vegetation

as defined in Section 6.01.020.M.8.

- D. The responsible party for a violation of subsection C of this section shall remove or otherwise destroy the subject invasive and noxious plants.

(Ord. 12-02 §1)

§ 6.02.030. Trees and Bushes.

- A. No responsible party shall permit branches or roots of trees or bushes on the property to extend into a right-of-way in a manner which interferes with its use.
- B. A responsible party shall keep the branches of all trees or bushes on the premises that adjoin the right-of-way, including an adjoining parking strip, trimmed to a height of not less than eight feet above a sidewalk and not less than 13 feet above a street.
- C. No responsible party shall allow to stand any hazard tree as defined in Chapter 8.02.

(Ord. 12-02 §1; Ord. 12-11 §1)

§ 6.02.040. Greenway Maintenance.

- A. A responsible party shall maintain the property, subject to an easement to the city or to the public for greenway purposes.
- B. Except as otherwise provided by this section and Sections 6.02.020 through 6.02.050, 6.02.210 through 6.02.230, and 6.02.310, the standards for maintenance shall be as follows:
1. Land shall remain in its natural topographic condition. No private structures, culverts, excavations or fills shall be constructed within the easement area unless authorized by the city engineer based on a finding of need in order to protect the property or the public health, safety or welfare.
 2. Grass shall be kept cut to a height not exceeding 10 inches, except when some natural condition prevents cutting.
- C. In situations where the approval authority establishes different standards or additional standards, the standards shall be in writing and shall be recorded.
- D. No person shall be found in violation of this section of the code unless the person has been given actual or constructive notice of the standards prior to the time the violation occurred.

(Ord. 12-02 §1; Ord. 12-11 §1)

§ 6.02.050. Attractive Nuisances.

- A. No responsible party shall permit on the property:
1. Unguarded machinery, equipment or other devices that are attractive, dangerous and accessible to children;
 2. Lumber, logs, building material or piling placed or stored in a manner so as to be attractive, dangerous and accessible to children;
 3. An open pit, quarry, cistern or other excavation without safeguards or barriers to prevent such places from being used by children; or

4. An exposed foundation or portion of foundation, any residue, debris or other building or structural remains, for more than 30 days after the destruction, demolition or removal of any building or portion of the building.
 - B. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to children.
- (Ord. 12-02 §1)

§ 6.02.060. Graffiti.

- A. Placing graffiti that is visible from premises open to the public, such as public rights-of-way or other publicly owned property, upon any real or personal property, such as buildings, fences and structures, is a violation of this title and is subject to its remedies.
- B. Any property location in the City of Tigard that becomes a graffiti nuisance property is in violation of this title and is subject to its remedies.
- C. Every responsible party who permits a property to become a graffiti nuisance property is in violation of this title and subject to its remedies.

(Ord. 12-02 §1)

Article II Property Development and Maintenance Requirements

§ 6.02.100. Violation of Title Prohibited.

Erecting, constructing, altering, maintaining or using any building or structure or using, dividing or transferring land in violation of the Community Development Code (Title 18) are declared to be a public nuisance in violation of this title.

(Ord. 12-02 §1)

§ 6.02.110. Conditions of Approval.

Failure to maintain a property in compliance with a condition of approval issued pursuant to the Community Development Code (Title 18) is declared to be a public nuisance in violation of this title.

(Ord. 12-02 §1)

§ 6.02.120. Visual Clearance Requirements.

All property within the city must be maintained in compliance with the visual clearance requirements of TCDC 18.930.030.

(Ord. 12-02 §1; Ord. 20-03 §5)

§ 6.02.130. Fences and Walls.

Erection of a fence or wall, except as in compliance with TCDC 18.210.020, 18.310.020, and 18.350.040.I, is declared to be a public nuisance in violation of this title.

(Ord. 12-02 §1; Ord. 20-03 §6)

§ 6.02.140. Accessory Structures.

Constructing, placing or maintaining an accessory structure in violation of the provisions of TCDC 18.290.050 is declared to be a public nuisance in violation of this title.

(Ord. 12-02 §1; Ord. 20-03 §7)

§ 6.02.150. Insects and Rodents.

Storage of any materials including wastes or maintaining any grounds in a manner that may attract or aid the propagation of insects or rodents or create a health hazard is declared to be a public nuisance in violation of this title.

(Ord. 12-02 §1)

§ 6.02.160. Signs.

Constructing, placing, or maintaining a sign in violation of Tigard Community Development Code Chapter 18.435 is declared to be a public nuisance in violation of this title.

(Ord. 12-02 §1; Ord. 18-20 §3)

§ 6.02.170. Storage in Front Yards.

Storage of boats, trailers, campers, camper bodies, house trailers, recreation vehicles or

commercial vehicles in excess of 3/4 ton capacity may be stored in a required front yard in a residential zone subject to the following:

- A. No such unit shall be parked in a visual clearance area of a corner lot or in the visual clearance area of a driveway which would obstruct vision from an adjacent driveway or street.
- B. No such unit shall be used for dwelling purposes except that one camper, house trailer or recreational vehicle may be used for sleeping purposes by friends, relatives or visitors on land entirely owned by or leased to the host person for a period not to exceed 14 days in one calendar year; provided that such unit shall not be connected to any utility, other than temporary electricity hookups, and provided that the host person shall receive no compensation for such occupancy or use.
- C. Any such unit parked in the front yard shall have current state license plates or registration and must be kept in mobile condition.

(Ord. 12-02 §1; Ord. 17-23 §1)

Article III
Junk, Garbage and Putrescible Waste

§ 6.02.210. Vehicles Not to Drop Material on Streets.

The owner or operator of any vehicle engaged in transportation of excavation or construction materials shall be responsible for keeping the public streets and sidewalks free from such materials, including, but not limited to, earth, rock and other debris that may obstruct or render the street or sidewalk unsafe for its intended use.

(Ord. 12-02 §1)

§ 6.02.220. Open Storage of Junk.

No person or responsible party shall deposit, store, maintain or keep on any real property, except in a fully enclosed storage facility, building or garbage receptacle, any of the following:

- A. An icebox or refrigerator, or similar container, which seals essentially airtight;
- B. Inoperable or partially dismantled automobiles, trucks, buses, trailers or other vehicle equipment or parts thereof in a state of disrepair;
- C. Used or dismantled household appliances, furniture, other discards or junk, for more than five days.

(Ord. 12-02 §1; Ord. 18-12 §1)

§ 6.02.230. Scattering Rubbish.

No person shall deposit upon public or private property any kind of rubbish, trash, debris, refuse, or any substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property or would be likely to injure a person or animal or damage a vehicle traveling upon a right-of-way.

(Ord. 12-02 §1)

§ 6.02.240. Garbage and Putrescible Waste.

- A. All solid waste receptacles, including, but not limited to, cans, containers and drop boxes, shall be maintained in a safe and sanitary condition by the customer.
- B. All putrescible solid wastes shall be removed from any premises at least once every seven days, regardless of whether or not confined in any container, compactor, drop box or other receptacle.

(Ord. 12-02 §1)

§ 6.02.250. Offensive Wastes Prohibited.

No person shall have waste on property that is offensive or hazardous to the health or safety of others or which creates offensive odors or a condition of unsightliness.

(Ord. 12-02 §1)

§ 6.02.260. Unauthorized Deposits Prohibited.

No person shall, without authorization and compliance with the disposal site requirements of

Chapter 11.04, deposit waste on public property or the private property of another. Streets and other public places are not authorized as places to deposit waste except as specific provisions for containers have been made.

(Ord. 12-02 §1)

Article IV Streets, Sidewalks, and Public Pedestrian Easements

§ 6.02.310. Streets, Sidewalks, and Public Pedestrian Easements.

A responsible party shall keep a public street or sidewalk abutting their property, or a public pedestrian easement over their property, free from earth, rock and other debris and other objects that may obstruct or render the street, sidewalk, or pathway unsafe for its intended use.

(Ord. 12-02 §1; Ord. 21-03 §2)

§ 6.02.320. Maintenance and Repair of Public Sidewalks and Public Pedestrian Easements.

It is the duty of all persons owning property which has public sidewalks abutting the property, or public pedestrian easements over the property, to maintain and keep in repair the sidewalks or pathways and not permit them to become or remain in a dangerous or unsafe condition. "Maintenance" includes, but is not limited to, the removal of snow and ice. Any owner of property who neglects to promptly comply with the provisions of this section is fully liable to any person injured by such negligence. The city is exempt from all liability, including, but not limited to, common-law liability, that it might otherwise incur to an injured party as a result of the city's negligent failure to maintain and repair public sidewalks or pedestrian easements.

(Ord. 12-02 §1; Ord. 21-03 §3)

§ 6.02.330. Sidewalks, Public Pedestrian Easements, Curbs and Planter Strips.

Maintenance of sidewalks, curbs and planter strips is the continuing obligation of the adjacent property owner. Maintenance of a public pedestrian easement is the continuing responsibility of the underlying property owner.

(Ord. 12-02 §1; Ord. 21-03 §4)

§ 6.02.340. Encroachments Within Rights-of-Way and Public Property.

Except as provided in Chapter 15.16, it is unlawful for any person to erect, or cause to be erected, any encroachment in, over, or upon any right-of-way, or public property without having first obtained a permit from the city engineer authorizing such action.

(Ord. 12-02 §1; Ord. 18-20 §§1, 2)

Article V Noise Nuisances

§ 6.02.410. Prohibition on Excessive Noise.

- A. No person shall make, assist in making, permit, continue or permit the continuance of any noise within the City of Tigard in violation of this article.
- B. No person shall cause or permit any noise to emanate from property under that person's control in violation of this article.

(Ord. 12-02 §1)

§ 6.02.420. Sound Measurement.

- A. While sound measurements are not required for enforcement of this article, should measurements be made, they shall be made with a sound level meter. A sound level meter shall:
 1. Be an instrument in good operating condition, meeting the requirements of a Type I or Type II meter;
 2. Contain at least an A-weighted scale, and both fast and slow meter response capability.
- B. If measurements are made, the person making those measurements shall have completed training in the use of a sound level meter, and shall use measurement procedures consistent with that training.

(Ord. 12-02 §1)

§ 6.02.430. Noise Limits.

It is unlawful for any person to produce, or permit to be produced, sounds which:

- A. When measured at the boundary of or within a property on which a noise-sensitive unit, not the source of the sound, is located, exceeds:
 1. 40 dB at any time between 10 p.m. and 7 a.m. the following day, or
 2. 50 dB at any time between 7 a.m. and 10 p.m. the same day; or
- B. Is plainly audible at any time between 10 p.m. and 7 a.m. the following day within a noise-sensitive unit which is not the source of sound; or
- C. Is unnecessarily loud within a noise-sensitive unit which is not the source of the sound;
- D. When measured at or within the boundary of or within a property on which no noise-sensitive unit is located, and the noise originates from outside the property, the noise level exceeds:
 1. 60 dB at any time between 10 p.m. and 7 a.m. of the following day, or
 2. 75 dB at any other time;
- E. If within a park, street or other public place, is unnecessarily loud at a distance of 100 feet.

(Ord. 12-02 §1)

§ 6.02.440. Prohibited Noises.

- A. Use of exhaust brakes (jake brakes), except in an emergency or except when used by a person operating an emergency services vehicle equipped with a muffled compression braking system, is prohibited at all times within the city, regardless of noise level.
- B. Except as provided in Section 6.02.450, the following acts are violations of this article if they exceed the noise limits specified in Section 6.02.430:
 1. Sounding of any horn or signal device or any other device on any automobile, motorcycle, truck, bus or other vehicle while in motion, except as a danger signal;
 2. Operation of sound-producing devices such as, but not limited to, musical instruments, loudspeakers, amplifying devices, public address systems, radios, tape recorders and/or tape players, compact disc players, phonographs, television sets and stereo systems, including those installed in or on vehicles;
 3. Operation of any gong or siren upon any vehicle, other than police, fire or other emergency vehicle, except during sanctioned parades;
 4. Use of any automobile, motorcycle or other vehicle so out of repair or in such a manner as to create loud or unnecessary sounds, grating, grinding, rattling or other noise;
 5. Keeping of any animal or bird that creates noise in excess of the levels specified in Section 6.02.430;
 6. Operation of air conditioning or heating units, heat pumps, refrigeration units (including those mounted on vehicles) and swimming pool or hot tub pumps;
 7. Erection (including excavation), demolition, alteration or repair of any building, except as allowed under Sections 6.02.450.E and 6.02.450.F;
 8. Use or creation of amplified sound in any outdoor facility;
 9. Any other action that creates or allows sound in excess of the level allowed by Section 6.02.430.

(Ord. 12-02 §1)

§ 6.02.450. Exceptions to Noise Limits.

The following shall not be considered violations of this article, even if the sound limit specified in Section 6.02.430 is exceeded:

- A. Non-amplified sounds created by organized athletic or other group activities, when such activities are conducted on property generally used for such purposes, such as stadiums, parks, schools and athletic fields, during normal hours for such events;
- B. Sounds caused by emergency work, or by the ordinary and accepted use of emergency equipment, vehicles and apparatus, regardless of whether such work is performed by a public or private agency, or upon public or private property;

- C. Sounds caused by bona fide use of emergency warning devices and alarm systems;
- D. Sounds regulated by federal law, including, but not limited to, sounds caused by railroads or aircraft;
- E. Sounds caused by demolition activities when performed under a permit issued by appropriate governmental authorities and only between the hours of 7 a.m. and 8 p.m. seven days a week;
- F. Sounds caused by industrial, agricultural or construction activities during the hours of 7 a.m. to 8 p.m. seven days a week;
- G. Sounds caused by regular vehicular traffic upon premises open to the public in compliance with state law. Regular vehicle traffic does not include a single vehicle that creates noise in excess of the standard set forth in Section 6.02.430;
- H. Sounds caused by air-, electrical- or gas-driven domestic tools, including, but not limited to, lawn mowers, leaf blowers, lawn edgers, radial arm, circular and table saws, drills and/or other similar lawn or construction tools, but not including tools used for vehicle repair, during the hours of 7 a.m. to 8 p.m. seven days a week;
- I. Sounds caused by chainsaws, when used for pruning, trimming or cutting of live trees between the hours of 7 a.m. and 8 p.m., and not exceeding two hours in any 24-hour period, seven days a week;
- J. Sounds created by community events, such as parades, public fireworks displays, street fairs and festivals that the city manager or designee has determined in writing to be community events for the purposes of this section. The city manager's decision shall be based on the anticipated number of participants or spectators, the location of the event and other factors the city manager determines to be appropriate under the circumstances;
- K. Sounds made by legal fireworks on the third of July, Fourth of July, and the Friday and Saturday during the weekend closest to the Fourth of July of each year, between the hours of 7 a.m. and 11 p.m.;
- L. Sounds made between midnight and 12:30 a.m. on January 1st of each year;
- M. Sounds originating from construction projects for public facilities within rights-of-way pursuant to a noise mitigation plan approved by the city manager. The city manager may approve a noise mitigation plan only if the city manager determines that the noise mitigation plan will prevent unreasonable noise impacts. The noise mitigation plan must:
 1. Map the project noise impacts and explain how the impacts will be mitigated,
 2. Provide special consideration and mitigation efforts for noise sensitive units,
 3. Outline public notification plans,
 4. Provide a 24-hour telephone contact number for information and complaints about a project.

The city manager may approve a noise mitigation plan only if the city manager determines that the noise mitigation plan will prevent unreasonable noise impacts.

(Ord. 12-02 §1)

§ 6.02.460. Maximum Noise Limit for Certain Activities.

Notwithstanding Section 6.02.450, creation of noise by any activity subject to the exceptions listed in subsection E, F, H, or I of Section 6.02.450, in excess of 85 dB measured on property on which a noise sensitive use is located, for more than five minutes in any calendar day, shall be a violation.

(Ord. 12-02 §1)

§ 6.02.470. Evidence of Noise Violation.

- A. In any civil infraction action based on a violation of limits set forth in subsection B, C or E of Section 6.02.430, the evidence of at least two persons from different households shall be required to establish a violation. Any police or code enforcement officer or other city employee who witnessed the violation shall be counted as a witness for purposes of the two witness requirement.
- B. The city may ask an alleged violator to enter into a voluntary compliance agreement consistent with Section 1.16.115 based on a single complaint or single witness.

(Ord. 12-02 §1)

**Article VI
Water Service and Meters**

§ 6.02.510. Service Connection and Maintenance.

- A. The city will maintain all standard service connections in good repair without expense to the customers.
- B. Each customer is required to use reasonable care and diligence to protect the water meter and meter box from loss or damage by freezing, hot water, traffic hazards and other causes, in default of which, such customer shall pay to the city the full amount of any resulting damage.
- C. Each customer is required to maintain a vegetation and other obstruction-free zone of a minimum of two feet around the box. Clear access to the meter shall be from the street side in a direct path to the water meter.
- D. Failure to maintain the area will result in city personnel clearing the area to meet the city's meter reading and maintenance needs. Any costs incurred by the city in clearing the area will be charged to the customer.
- E. The city shall have no liability for trimming or maintaining vegetation in order to read meters.

(Ord. 12-02 §1)

Article VII Keeping Livestock

§ 6.02.610. Definitions.

"Bee" means a honey-producing insect of the species *Apis mellifera* commonly known as honeybee.

"Hive" means a moveable structure for housing a collection of bees with a single queen.

"Livestock facility" means structure(s) and land for keeping livestock, excluding bees, that includes both of the following elements:

1. "Shelter" means a roofed structure, such as a coop, hutch, animal carrier, or cage, that protects livestock from the elements and predators.
2. "Run or yard" means a fenced area that gives livestock access to the outdoors and prevents their escape.

"Livestock keeper" means any person who harbors, cares for, or exercises control over livestock.

"Livestock" means honeybees and animals that are typically kept outside; may produce milk, meat, wool, honey, or eggs; and may be kept humanely in urban backyards. Livestock does not include common household pets or exotic animals.

(Ord. 22-09 §3)

§ 6.02.620. General Provisions.

Livestock keepers must comply with all provisions of this title and any administrative rules for best practices determined applicable by the city. Failure to comply is declared to be a public nuisance in violation of this title.

(Ord. 22-09 §3)

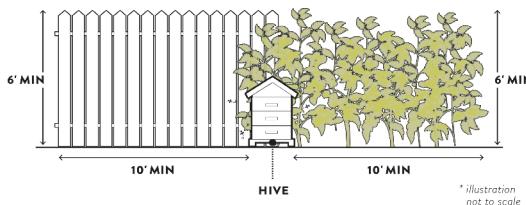
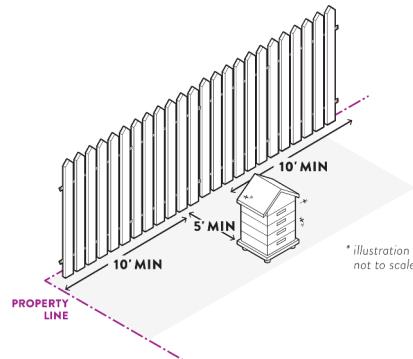
§ 6.02.630. Keeping Livestock.

- A. Complaints. Livestock keepers must respond to and remediate valid complaints in a timely manner. Valid complaints include, but are not limited to, the identifiable presence of vermin or noxious odors.
- B. Prohibited Animals. Roosters over three months old are prohibited.
- C. Bees.
 1. Hive Care and Maintenance. Beekeepers must:
 - a. Respond to bee swarming incidents within 36 hours.
 - b. Keep hives in good repair and provide adequate space to prevent overcrowding and swarming.
 - c. Provide bees with a clean and accessible source of water on the lot where the hive is located from March through October.
 2. Hive Locations.
 - a. Livestock keepers with hives located within 10 feet of a lot line or public access

easement must provide a flyaway barrier that meets the following requirements:

- i. Measures at least six feet in height;
- ii. Consists of a solid wall, fence, dense vegetation, or combination thereof; and
- iii. Extends 10 feet in length beyond the hive in each direction, as shown in Figure 6.02.1.

Figure 6.02.1: Flyaway Barrier Examples



D. Other Livestock.

1. Livestock Care and Maintenance.

- a. Livestock keepers must contact a licensed veterinarian to examine any animal believed to have a disease contagious to animals (e.g., mange, eczema) or humans (e.g., ringworm, hepatitis, rabies). If an animal is affirmatively diagnosed, livestock keepers must comply with all veterinary instructions for care and confinement until the animal is declared free of disease.
- b. Animal feed must be stored in a lidded container and managed so as not to become a nuisance.
- c. No person may dye or color any fowl or rabbit under three months of age.

2. Livestock Facilities. Livestock must be kept within a livestock facility as defined in Section 6.02.010 and shown in Figure 6.02.2, and provided in Table 6.02.3.

- a. Livestock facilities must be kept in good repair and maintained in a manner that does not endanger the health or well-being of the livestock.

- b. Multiple species are allowed within a single facility.
- c. Runs or yards must be fenced with materials designed to safely contain the specific livestock being kept.
- d. Livestock must be kept within a shelter during non-daylight hours, as provided in Table 6.02.3.
- e. Shelters must be located a minimum of five feet away from all lot lines and public access easements and within a fenced run or yard.
- f. An individual shelter may be a maximum of 15 feet in height and 528 square feet in size. Multiple shelters may be provided.
- g. Shelters may or may not be permanently fixed to the ground.
- h. Shelters that are permanently fixed to the ground may not cause the lot to exceed the maximum lot coverage allowed in the base zone.

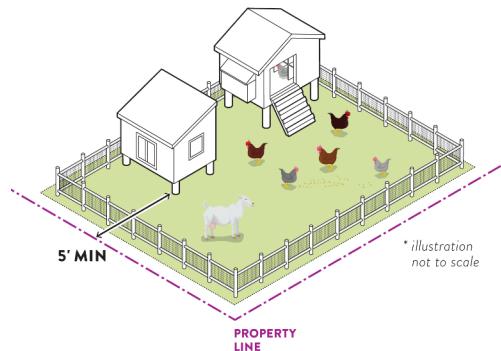
Figure 6.02.2: Example of an Allowed Livestock Facility

Table 6.02.3: Where Livestock are Allowed

Time of Day	Location		Fenced Yard (outside of fenced run)
	Livestock Facility	Fenced Run	
Daylight hours	Allowed	Allowed	Allowed
Non-daylight hours	Required	Prohibited	Prohibited

(Ord. 22-09 §3)

**CHAPTER 6.03
PROPERTY IN THE RIGHT-OF-WAY**

§ 6.03.010. Signs in the Right-of-Way.

- A. Placement of a sign in the right-of-way, unless the placement is authorized by a separate provision of any title of the Tigard Municipal Code or Oregon Revised Statutes, is declared to be a public nuisance in violation of this title.
- B. A responsible party for a sign in violation of this chapter shall be responsible for any and all costs associated with disposition of the sign.

(Ord. 12-02 §1)

§ 6.03.020. Abandoned Personal Property in the Right-of-Way.

- A. Abandoned personal property in the right-of-way is declared to be a public nuisance in violation of this title.
- B. The responsible party for the abandoned personal property shall be responsible for any and all costs associated with disposition of the abandoned personal property.

(Ord. 12-02 §1)

§ 6.03.030. City Authority to Remove.

The city manager may confiscate any sign in violation of Section 6.03.010 and any abandoned personal property in violation of Section 6.03.020 without prior notice.

(Ord. 12-02 §1)

§ 6.03.040. Notice Requirements.

- A. Subject to exemption by Section 6.03.050, the responsible party for personal property or signs confiscated under Section 6.03.030 shall be notified of the violation and confiscation by the city manager or designee.
 1. If the identity and mailing address of the responsible party for personal property or signs confiscated under Section 6.03.030 is known, the city manager shall notify the owner of the item by certified mail or personal service no later than 30 days following the date of the confiscation.
 2. If the identity and mailing address of the responsible party for personal property or signs is not known, the city manager shall arrange for the public notice of the confiscation to be provided within 30 days following the confiscation, either by publication in a newspaper of general circulation in the city or by publication on the city website, with a clearly marked link from the city's homepage.
- B. A notice under subsection A of this section shall include:
 1. A statement that the personal property or sign was in violation of Chapter 6.03 of the Tigard Municipal Code;
 2. A description of the personal property or sign and the date, time and location from which the item was confiscated;

3. A copy of Section 6.03.030 notifying the responsible party of the process and fees required to retrieve the confiscated personal property or sign from the city;
 4. The date after which disposal of the personal property or signs shall occur.
- C. A notice by publication under subsection A of this section may contain multiple listings of confiscated signs.
- (Ord. 12-02 §1)

§ 6.03.050. Exemption from Notice Requirements.

- A. The city manager may exempt certain signs from the notice requirements of Section 6.03.040.
 - B. Signs that are exempt from notice requirements:
 1. Shall be stored for a minimum of 14 days after the date of confiscation;
 2. Shall be available during the storage period for reclamation by the owner after payment in full of all costs associated with the disposition of the sign;
 3. May be disposed of after the storage period without further notification.
- (Ord. 12-02 §1)

§ 6.03.060. Reclamation of Confiscated Personal Property and Signs.

- A. The city manager shall establish a location for the storage of confiscated personal property and signs. The location should be reasonably secure and accessible to city staff so that personal property and signs can be reclaimed.
 - B. Confiscated personal property and signs shall be stored for no less than 30 days following the provision of notice under Sections 6.03.040 and 6.03.050.
 - C. The city manager is authorized to impose and collect an appropriate administrative fee for a violation of this chapter consistent with Section 1.16.640.A.2 and to additionally recover all costs associated with the confiscated item.
- (Ord. 12-02 §1)

§ 6.03.070. Disposal of Personal Property, Signs and Junk.

- A. The city manager may immediately dispose of any junk found in the right-of-way. Disposing of junk under this subsection is not subject to the notice and reclamation provisions of Sections 6.03.040 through 6.03.060.
- B. The city manager may order the destruction or other disposal of any personal property coming into the city's possession which is determined by the city to be dangerous or perishable. Weapons shall be destroyed in accordance with ORS 166.280. Such disposal under this subsection is not subject to the notice and reclamation provisions of Sections 6.03.040 through 6.03.060.
- C. At the sole discretion of the city manager and without provision of notice, the city may donate, dispose of, sell, recycle or repurpose any personal property or sign not reclaimed before expiration of the storage period.

- D. In lieu of disposal of confiscated personal property under this section, at any time the city is authorized to sell or auction any confiscated personal property or sign, the city may convert the personal property or sign to public use by entering it on the city's fixed asset inventory.
1. Notice of the transfer of the personal property or sign to the city shall be given once by publication in a newspaper of general circulation in the city or by publication on the city website at least 30 days before the personal property or sign is converted to city use. The notice shall describe the property and state that the described personal property or sign shall be converted to city use if the personal property or sign is not reclaimed within 30 days.
 2. If the personal property or sign is not reclaimed within 30 days after publication of the notice described in subsection D.1 of this section, the personal property or sign shall be entered on the city's fixed asset inventory and shall not be subject to the right of redemption.

(Ord. 12-02 §1)

§ 6.03.080. Appeal of Confiscation.

- A. The responsible party for confiscated personal property or a sign may request a hearing to contest the validity of confiscation by submitting a written request for hearing with the city not more than five days from the mailing date of the notice or publishing of public notice.
- B. The request shall state the reason(s) why the responsible party believes that the confiscation was invalid and include payment in full for the cost of the hearing.
- C. The city shall not consider requests for hearings which do not meet the requirements of subsections A and B of this section.
- D. The city manager or designee may establish a fee for the cost of conducting a hearing.
- E. A hearing shall comply with all of the following:
 1. Upon receipt of a proper request for a hearing, the city shall set a time for a hearing within 30 days of the receipt of the request and shall provide notice of the hearing to the responsible party for the confiscated personal property or sign.
 2. Hearings held under this section may be informal in nature, but shall afford a reasonable opportunity for the person requesting the hearing to demonstrate by the statements of witnesses and other evidence, that the confiscation of the personal property or sign was invalid, or for any other reason not justified.
 3. The hearings officer may be a city officer, official or employee, but may not have participated in any determination or investigation related to confiscation of the personal property or sign. The city manager may promulgate rules for conducting hearings.
 4. A responsible party requesting a hearing may be represented by legal counsel; however, legal counsel shall not be provided at public expense. Written notice of representation by legal counsel shall be provided to the city with the written request for a hearing.

5. The city is only required to provide one hearing each time it confiscates personal property or a sign.
 6. Appeal of simultaneous confiscation of multiple items of personal property or signs of the same responsible party may be consolidated into a single appeal hearing.
 7. If the city finds after a hearing that the confiscation of the personal property or sign was invalid:
 - a. The city shall order the immediate release of the personal property or sign to the responsible party for the item(s), if still in possession of the city; and/or
 - b. Refund to the responsible party any payment of costs associated with removal, storage, detention and maintenance of the personal property or sign that has been reclaimed.
 - c. The responsible party shall not receive a refund for the cost of the hearing, and shall be liable for storage charges incurred more than 24 hours after the time the personal property or sign is officially ordered released.
 8. If the city finds after a hearing that confiscation of the personal property or sign was valid, the city shall order the personal property or sign be held until the costs of the hearing and all monies incurred or charges associated with the cost of removal, storage, detention, maintenance and disposition of the confiscated personal property or sign are paid.
 9. A person failing to appear at a hearing is not entitled to another hearing or any refund of costs unless the person provides the city satisfactory proof for the person's failure to appear.
 10. The city shall provide a written statement of the results of the hearing to the person requesting the hearing.
11. Determination of the hearings officer at a hearing is final and not subject to appeal.
(Ord. 12-02 §1)

§ 6.03.090. Exemption for Criminal Investigation.

A vehicle that is being held as part of any criminal investigation is not subject to any requirements of Chapter 6.03.

(Ord. 12-02 §1)

Title 7**PUBLIC PEACE, SAFETY AND MORALS**

<p style="text-align: center;">Chapter 7.04 GENERAL PROVISIONS</p> <p>§ 7.04.010. Short Title.</p> <p>§ 7.04.020. Purpose of Criminal Code.</p> <p>§ 7.04.030. Application of Criminal Code.</p> <p>§ 7.04.040. Constitutionality of Criminal Code.</p>	<p>§ 7.12.020. Crimes and Misdemeanors Defined.</p> <p>§ 7.12.030. Classification of Misdemeanors.</p> <p>§ 7.12.040. Violation—Defined.</p> <p>§ 7.12.050. Violation—Classification.</p> <p>§ 7.12.060. Attempt to Commit a Crime Defined.</p>	<p style="text-align: center;">Chapter 7.16 DISPOSITION OF OFFENDERS</p> <p>§ 7.16.010. Sentences for Misdemeanors.</p> <p>§ 7.16.020. Fines for Misdemeanors and Violations.</p> <p>§ 7.16.030. Criteria for Imposition of Fines.</p> <p>§ 7.16.040. Fines for Corporations.</p> <p>§ 7.16.050. Costs.</p> <p>§ 7.16.060. Payment of Fines and Costs.</p> <p>§ 7.16.070. Nonpayment of Fines or Costs—Consequences.</p>	<p style="text-align: center;">Chapter 7.20 OFFENSES AGAINST PERSONS</p> <p>§ 7.20.010. Assault in the Fourth Degree.</p> <p>§ 7.20.020. Menacing Defined.</p> <p>§ 7.20.030. Recklessly Endangering Another Person.</p> <p>§ 7.20.040. Harassment.</p> <p>§ 7.20.050. Criminal Defamation.</p> <p>§ 7.20.060. Assaulting a Public Safety Officer.</p>	<p style="text-align: center;">Chapter 7.24 OFFENSES AGAINST PROPERTY</p> <p>§ 7.24.010. Theft—Definitions.</p>
<p style="text-align: center;">Chapter 7.08 ADOPTION OF STATE STATUTES</p> <p>§ 7.08.010. Sections of Chapter 743, 1971 Oregon Laws Adopted by Reference.</p> <p>§ 7.08.020. Chapter 743 Sections—Definitions.</p> <p>§ 7.08.030. Article , Sections 3 and 4—General Definitions—Defenses—Burden of Proof.</p> <p>§ 7.08.040. Article , Sections 7, 8, 9, 10 and 11-General Principles of Criminal Liability.</p> <p>§ 7.08.050. Article , Sections 12, 13, 14, 15, 16, and 17—Parties to Crime.</p> <p>§ 7.08.060. Article , Sections 18 through 35—General Principles of Justification.</p> <p>§ 7.08.070. Article 22, Sections 182, 186, 187, and 188—Perjury.</p> <p>§ 7.08.080. Article 24, Section 197—Obstructing Governmental Administration.</p>				
<p style="text-align: center;">Chapter 7.12 CLASSIFICATION OF OFFENSES</p> <p>§ 7.12.010. Offense Defined.</p>				

TIGARD CODE

§ 7.24.020.	Theft—Accusation—Proof.	§ 7.28.050.	Refusing to Assist Peace Officer.
§ 7.24.030.	Theft—Defined.	§ 7.28.060.	Refusing to Assist Fire-Fighting Operations.
§ 7.24.040.	Theft—In the Second Degree.	§ 7.28.070.	Tampering—With Witness.
§ 7.24.045.	Theft—In the Third Degree.	§ 7.28.080.	Tampering—With Physical Evidence.
§ 7.24.050.	Theft—Lost, Mislaid Property.	§ 7.28.090.	Tampering—With Public Records.
§ 7.24.060.	Theft—By Deception.	§ 7.28.100.	Resisting Arrest.
§ 7.24.070.	Theft—By Receiving.	§ 7.28.110.	Initiating False Report.
§ 7.24.080.	Right of Possession.	§ 7.28.115.	Giving False Information to Police Officer for a Citation.
§ 7.24.090.	Value of Stolen Property.	§ 7.28.120.	Criminal Impersonation.
§ 7.24.100.	Theft—Defenses.	§ 7.28.130.	Hindering Prosecution.
§ 7.24.110.	Theft—Of Services.	§ 7.28.140.	Tampering with Police Dogs.
§ 7.24.120.	Criminal Trespass—Definitions.		
§ 7.24.130.	Criminal—In the Second Degree.		
§ 7.24.135.	Criminal Trespass—School District #23J.		Chapter 7.32 OFFENSES AGAINST PUBLIC ORDER
§ 7.24.137.	Criminal Trespass in the Second Degree by a Guest.	§ 7.32.010.	Disorderly Conduct.
§ 7.24.140.	Criminal Trespass—In the First Degree.	§ 7.32.040.	Abuse of Venerated Objects.
§ 7.24.145.	Criminal Trespass While in Possession of Firearm.	§ 7.32.050.	Offensive Littering.
§ 7.24.150.	Reckless Burning.	§ 7.32.060.	Creating a Hazard.
§ 7.24.160.	Criminal Mischief—In the Third Degree.	§ 7.32.070.	Improper Garbage Transportation.
§ 7.24.170.	Criminal Mischief—In the Second Degree.	§ 7.32.080.	Blasting Without Permit.
§ 7.24.180.	Possession of Burglar's Tools.	§ 7.32.110.	Public Indecency.
§ 7.24.190.	Dog Poisoning.	§ 7.32.120.	Discharge of Weapons.
§ 7.24.200.	Destruction of Official Notices or Signs.	§ 7.32.125.	Carrying Loaded Firearms.
		§ 7.32.130.	Carrying Concealed Weapons.
		§ 7.32.150.	Use of Air Guns and Beanshooters.
		§ 7.32.160.	Manufacturing, Selling, Carrying or Possessing Slugging or Stabbing Weapons.
		§ 7.32.170.	Persons Permitted to Carry Blackjacks.
§ 7.28.010.	False Swearing.	§ 7.32.180.	Public Consumption of Alcoholic Beverage.
§ 7.28.020.	Unsworn Falsification.		
§ 7.28.030.	Failure to Appear in the Second Degree.		
§ 7.28.040.	Obstructing Governmental Administration.		

Chapter 7.28
OBSTRUCTING LAW ENFORCEMENT

§ 7.28.010.	False Swearing.	§ 7.32.170.	
§ 7.28.020.	Unsworn Falsification.	§ 7.32.180.	
§ 7.28.030.	Failure to Appear in the Second Degree.		
§ 7.28.040.	Obstructing Governmental Administration.		

PUBLIC PEACE, SAFETY AND MORALS

	Chapter 7.34 CONTROLLED SUBSTANCES		
§ 7.34.010.	Definitions.	§ 7.42.015.	Incorporation of State Statute.
§ 7.34.020.	Frequenting a Place Where Controlled Substances Are Used.	§ 7.42.020.	Definitions.
§ 7.34.030.	Prohibited Acts Generally—Penalties.	§ 7.42.030.	Chronic Nuisance Property.
	Chapter 7.36 MINORS	§ 7.42.040.	Notification Procedures.
§ 7.36.010.	Misrepresentation of Age.	§ 7.42.042.	Chronic Nuisance Abatement Plan.
§ 7.36.020.	Sale or Gift of Liquor Prohibited—Exception.	§ 7.42.045.	Enforcement.
§ 7.36.030.	Purchase or Possession of Liquor by Person Under Twenty-One Years of Age.	§ 7.42.050.	Remedies.
§ 7.36.040.	Unattended Minor in a Vehicle.	§ 7.42.060.	Defenses—Mitigation of Civil Penalty.
§ 7.36.050.	Harboring Runaway Child.	§ 7.42.070.	Closure During Pendency of Action—Emergency Closures.
§ 7.36.060.	Providing Premises for the Consumption of Alcohol by Minors Prohibited.	§ 7.42.080.	Enforcement of Closure Order—Costs—Civil Penalty.
		§ 7.42.085.	Tenant Relocation Costs.
		§ 7.42.090.	Attorney Fees.
		§ 7.42.100.	Severability.
		§ 7.42.110.	Nonexclusive Remedy.
			Chapter 7.44 CURFEW HOURS FOR MINORS
	Chapter 7.38 TRUANCY	§ 7.44.010.	Prohibition of Unaccompanied or Unemancipated Minors from Being in Public Places During Certain Hours.
§ 7.38.010.	Regular School Hours Defined.	§ 7.44.020.	Prohibition of Parents, Guardians or Custodians from Allowing Minors to Be in Public Places During Curfew Hours.
§ 7.38.020.	School-Aged Children to Be in School During School Hours.	§ 7.44.025.	Curfew Hours for Minors.
§ 7.38.030.	Authority to Detain and Inquire.	§ 7.44.030.	Custody of Minors Violating Curfew.
§ 7.38.040.	Child to Be Returned to School or Taken into Protective Custody.	§ 7.44.040.	Violation by Parent, Guardian or Custodian.
§ 7.38.050.	Additional Authority.		

Chapter 7.42
CHRONIC NUISANCE PROPERTY

§ 7.42.010. **Short Title.**

	Chapter 7.48	§ 7.52.150.	Animal, Bird, and Fish Prohibitions.
USE OF CITY PROPERTY AND PUBLIC RIGHT-OF-WAY FOR SPECIAL EVENTS			
§ 7.48.010.	Permit Required; Scope.	§ 7.52.170.	Fishing and Bathing Restrictions.
§ 7.48.020.	Time, Place, and Manner Limitations on Special Events.	§ 7.52.190.	Animals.
§ 7.48.030.	Permit Application.	§ 7.52.225.	Smoking Prohibited.
§ 7.48.040.	Standards for Approval.	§ 7.52.230.	Fires.
§ 7.48.050.	Conditions.	§ 7.52.270.	Motor Vehicles.
§ 7.48.060.	Appeal of the Permit Decision.	§ 7.52.300.	Penalty for Violation.
§ 7.48.070.	Enforcement.		
	Chapter 7.50		Chapter 7.56
AUTHORITY TO RESTRICT ACCESS TO CERTAIN AREAS		INDECENT CONDUCT	
§ 7.50.010.	Threat to Health or Safety.	§ 7.56.010.	Sexual Touching for a Fee—Declarations.
§ 7.50.020.	Criminal Investigation.	§ 7.56.020.	Sexual Touching for a Fee—Definitions.
§ 7.50.030.	Restrict or Deny Access.	§ 7.56.030.	Sexual Touching for a Fee—Prohibitions.
§ 7.50.040.	Unlawful to Enter or to Refuse to Leave.	§ 7.56.040.	Sexual Touching for a Fee—Penalties.
§ 7.50.050.	News Media.		
§ 7.50.060.	Violation—Penalty.		
	Chapter 7.52		Chapter 7.58
PARK PROPERTY USE		RULES OF CONDUCT ON CITY PROPERTY	
§ 7.52.010.	Policy of City Council.	§ 7.58.010.	General Purposes of Chapter.
§ 7.52.030.	Use Regulations.	§ 7.58.020.	Definitions.
§ 7.52.050.	Closures.	§ 7.58.040.	Prohibited Acts Generally.
§ 7.52.080.	Concessions and Sales.	§ 7.58.070.	City Manager to Make Rules and Regulations.
§ 7.52.090.	Display or Posting Materials.	§ 7.58.080.	Rules of Conduct on City Property.
§ 7.52.100.	Alcoholic Beverages.	§ 7.58.090.	Enforcement and Exclusion from City Property.
§ 7.52.110.	Refuse and Trash Prohibitions.	§ 7.58.100.	Right to Appeal.
§ 7.52.120.	Destruction of Property.	§ 7.58.110.	Variances.
§ 7.52.130.	Gambling Prohibited.		
§ 7.52.140.	Firearms or Fireworks Prohibited.		
	Chapter 7.60		
ABANDONED VEHICLES			
		§ 7.60.010.	Definitions.
		§ 7.60.015.	Abandoned or Stored Vehicles—Offense.
		§ 7.60.020.	Removal—Notice.

PUBLIC PEACE, SAFETY AND MORALS

§ 7.60.030.	Removal—Procedure.	§ 7.70.130.	Civil Penalties.
§ 7.60.040.	Information Provided by Tower.	§ 7.70.140.	Revocation or Suspension of Secondhand Dealer License.
§ 7.60.050.	Impoundment—Notice.	§ 7.70.150.	Appeals.
§ 7.60.055.	Hearing to Contest Validity of Custody and Removal.	§ 7.70.155.	Administrative Policies and Procedures.
§ 7.60.057.	Exemption for Criminal Investigation.		Chapter 7.74
§ 7.60.060.	Appraisals.		EMERGENCY OPERATIONS
§ 7.60.070.	Vehicles—Disposition.	§ 7.74.000.	Emergency Management Code.
§ 7.60.080.	Sale—Notice.	§ 7.74.010.	Short Title.
§ 7.60.090.	Sale—Procedure.	§ 7.74.020.	Emergency Management Plan.
§ 7.60.100.	Redemption before Sale.	§ 7.74.030.	Agreements.
§ 7.60.110.	Sale—Proceeds Disposition.	§ 7.74.040.	"Local Emergency" Defined.
§ 7.60.120.	Application.	§ 7.74.050.	Adoption of the National Incident Management System.
§ 7.60.130.	Charges.		Executive Responsibilities and Line of Succession.
§ 7.60.140.	Forms.		Declaration and Ratification of a Local Emergency.
§ 7.60.150.	Claim of Owner to Proceeds.		Declaration of Emergency—Authorized Procedures.
Chapter 7.70			
SECONDHAND DEALERS AND TRANSIENT MERCHANTS		§ 7.74.060.	
§ 7.70.010.	Purpose.	§ 7.74.070.	
§ 7.70.020.	Definitions.	§ 7.74.080.	
§ 7.70.030.	Secondhand Dealer License Required.	§ 7.74.090.	
§ 7.70.035.	Minimum Standards.		
§ 7.70.040.	Application for Secondhand Dealer License.		
§ 7.70.045.	Surety Bond Required.		
§ 7.70.050.	Issuance and Renewal of Secondhand Dealer License.		
§ 7.70.060.	Secondhand Dealer License Fees.	§ 7.78.010.	Title.
§ 7.70.070.	Subsequent Locations.	§ 7.78.020.	Definitions.
§ 7.70.080.	Reporting of Secondhand Dealer Transactions.	§ 7.78.030.	Forfeiture—Property Designated.
§ 7.70.090.	Regulated Property Sale Limitations.	§ 7.78.040.	Seizure Process.
§ 7.70.100.	Tagging Regulated Property for Identification.	§ 7.78.050.	Legal Proceedings.
§ 7.70.110.	Inspection of Property and Records.	§ 7.78.060.	Disposition of Property.
§ 7.70.120.	Prohibited Acts.	§ 7.78.070.	Nonconsensual Use of Property for Illegal Activity.
		§ 7.78.080.	Report to City Council.
Chapter 7.78			
			PROPERTY-FORFEITURE FOR CRIMINAL ACTIVITY

	Chapter 7.80	§ 7.82.020.	Definitions.
	PROHIBITED CAMPING	§ 7.82.030.	Prohibited Conduct.
		§ 7.82.040.	Penalty for Violation.
§ 7.80.010.	Definitions.		
§ 7.80.020.	Prohibited Camping.		Chapter 7.84
§ 7.80.030.	Time, Place, and Manner Regulations.		FIREWORK REGULATION
§ 7.80.040.	Violation.	§ 7.84.010.	Definitions.
	Chapter 7.82	§ 7.84.020.	Illegal Fireworks Prohibited.
	SMOKING	§ 7.84.030.	Temporary Prohibitions During Extreme Fire Danger.
§ 7.82.010.	Policy of City Council.		

CHAPTER 7.04 GENERAL PROVISIONS

§ 7.04.010. Short Title.

The ordinance codified in this title shall be known as the "Criminal Code of the City of Tigard," and may be so cited and pleaded.

(Ord. 84-65 §2)

§ 7.04.020. Purpose of Criminal Code.

(a) The general purposes of the criminal code are:

- (1) To ensure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the correction and rehabilitation of those convicted, and their confinement when required in the interests of public protections;
- (2) To forbid and prevent conduct that unjustifiably and inexcusably inflicts or threatens substantial harm to individual or public interests;
- (3) To give fair warning of the nature of the conduct declared to constitute an offense and of the sentences authorized upon conviction;
- (4) To define the act or omission and accompanying mental state that constitute each offense and limit the condemnation of conduct as criminal when it is without fault;
- (5) To differentiate on reasonable grounds between serious and minor offenses;
- (6) To prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities among individual offenders;
- (7) To safeguard offenders against excessive, disproportionate or arbitrary punishment.

(b) The rule that a penal statute is to be strictly construed shall not apply to this title or any of its provisions. All provisions of this title shall be construed according to the fair import of their terms, to promote justice and to effect the purposes stated in subsection (a) of this chapter.

(Ord. 84-65 §2)

§ 7.04.030. Application of Criminal Code.

- (a) The provisions of this title shall govern the construction of and punishment for any offense defined in this title and committed after the effective date of the criminal code, as well as the construction and application of any defense to a prosecution for such an offense.
- (b) Except as otherwise expressly provided, or unless the context requires otherwise, the provisions of this title shall govern the construction of and punishment for any offense defined outside of this title committed after the effective date of the criminal code, as well as the construction and application of any defense to a prosecution for such an offense.
- (c) The provisions of this title shall not apply to or govern the construction of and punishment

for any offense committed before the effective date of the criminal code, or the construction and application of any defense to a prosecution for such an offense. Such an offense shall be construed and punished according to the law existing at the time of the commission of the offense in the same manner as if the ordinance codified in this title had not been enacted.

- (d) When all or part of a criminal statute is amended or repealed, the criminal statute or part thereof so amended or repealed remains in force for the purpose of authorizing the accusation, prosecution, conviction and punishment of a person who violated the statute or part thereof before the effective date of the amending or repealing ordinance.

(Ord. 84-65 §2)

§ 7.04.040. Constitutionality of Criminal Code.

If any clause, sentence, paragraph, section, article or portion of this title for any reason shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect, impair or invalidate the remainder of this title but shall be confined in its operation to the clause, sentence, paragraph, section or portion of this title directly involved in the controversy in which judgment is rendered.

(Ord. 84-65 §2)

**CHAPTER 7.08
ADOPTION OF STATE STATUTES**

§ 7.08.010. Sections of Chapter 743, 1971 Oregon Laws Adopted by Reference.

By virtue of the authority contained in ORS Section 221.330, all those sections of:

- (1) Chapter 743 of the Oregon Laws of 1971 as enacted by the 1971 Legislative Session, and specifically amended in this chapter and hereinafter listed in this code are adopted by this reference in the entirety.
- (2) Oregon Revised Statutes referred to in this code shall be adopted as part of this code. All references are to be statutes in effect at the adoption of this code and such provisions shall remain in effect until specifically amended by the City, by ordinance.
(Ord. 84-65 §2)

§ 7.08.020. Chapter 743 Sections—Definitions.

Whenever reference in the section of Chapter 743 of the Oregon Laws of 1971 cited in this chapter is made to:

- (1) "Oregon Criminal Code" means the criminal code of the City of Tigard;
- (2) "State" means the City of Tigard;
- (3) "Court" means the Municipal Court of the City of Tigard.
(Ord. 84-65 §2)

§ 7.08.030. Article 1, Sections 3 and 4—General Definitions—Defenses—Burden of Proof.

The following sections of Article 1, Chapter 743, Oregon Laws of 1971 are adopted by reference:

- (1) Section 3 as amended by 1973 c.139 s.1; 1979 c.653 s.3, general definitions;
- (2) Section 4, defenses, burden of proof.
(Ord. 84-65 §2)

§ 7.08.040. Article 2, Sections 7, 8, 9, 10 and 11-General Principles of Criminal Liability.

The following sections of Article 2, Chapter 743, Oregon Laws of 1971 are adopted by reference:

- (1) Section 7 as amended by 1973 c.139 s.2, culpability, definitions;
- (2) Section 8, general requirements of culpability;
- (3) Section 9, culpability requirements inapplicable to violations and to offenses defined by other statutes;
- (4) Section 10, construction of statutes with respect to culpability requirements;
- (5) Section 11 as amended by 1973 c.697 s.13; 1979 c.744 s.6, intoxication.
(Ord. 84-65 §2)

§ 7.08.050. Article 3, Sections 12, 13, 14, 15, 16, and 17—Parties to Crime.

The following sections of Article 3, Chapter 743, Oregon Laws of 1971 are adopted by reference:

- (1) Section 12, criminal liability based upon conduct;
- (2) Section 13, criminal liability for conduct of another, complicity;
- (3) Section 14, criminal liability for conduct of another, no defense;
- (4) Section 15, exemptions to criminal liability for conduct of another;
- (5) Section 16, criminal liability of corporations;
- (6) Section 17, criminal liability of an individual for corporate conduct.

(Ord. 84-65 §2)

§ 7.08.060. Article 4, Sections 18 through 35—General Principles of Justification.

The following sections of Article 4, Chapter 743, Oregon Laws of 1971 are adopted by reference:

- (1) Section 18, justification, a defense;
- (2) Section 19, justification, generally;
- (3) Section 20, justification, choice of evils;
- (4) Section 21, as amended by 1981 c.246 s.1, justification, use of physical force generally;
- (5) Section 22, justification use of physical force in defense of a person;
- (6) Section 23, justification, limitations on use of deadly physical force in defense of a person;
- (7) Section 24, justification, limitations on use of physical force in defense of a person;
- (8) Section 25, justification, use of physical force in defense of premises;
- (9) Section 26, justification, use of physical force in defense of property;
- (10) Section 27, justification, use of physical force in making an arrest or in preventing an escape;
- (11) Section 28, justification, use of deadly physical force in making an arrest or in preventing an escape;
- (12) Section 29, justification, use of physical force in making an arrest or preventing an escape, basis for reasonable belief;
- (13) Section 30, justification, use of physical force by private person assisting an arrest;
- (14) Section 31 as amended by 1973 c.836 s.339, justification, use of physical force by private person acting on his or her own account to make an arrest;
- (15) Section 32, justification, use of physical force in resisting arrest prohibited;
- (16) Section 33, justification, use of physical force by guard in correctional facility to prevent an escape;

- (17) Section 34, duress;
 - (18) Section 35, entrapment.
- (Ord. 84-65 §2)

§ 7.08.070. Article 22, Sections 182, 186, 187, and 188—Perjury.

The following sections of Article 22, Chapter 743, Oregon Laws of 1971 are adopted by reference:

- (1) Section 182 as amended by 1981 c.892 s.90, perjury and related offenses, definitions;
 - (2) Section 186, perjury and false swearing, irregularities no defense;
 - (3) Section 187, perjury and false swearing, retraction;
 - (4) Section 188, perjury and false swearing, corroboration required.
- (Ord. 84-65 §2)

§ 7.08.080. Article 24, Section 197—Obstructing Governmental Administration.

Section 197 of Chapter 743, Oregon Laws of 1971 is adopted by reference as follows:

- Section 197, obstructing governmental administration, definitions.
(Ord. 84-65 §2)

**CHAPTER 7.12
CLASSIFICATION OF OFFENSES**

§ 7.12.010. Offense Defined.

- (a) An offense is conducted for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law or ordinance of a political subdivision of this state. An offense is either a crime or a violation or an infraction.
- (b) The doing of any act or thing prohibited, or the failure to do an act or thing commanded to be done, by this title within the City limits, is declared to be an offense against the public peace, safety, health, morals and general welfare of the people of the City.

(Ord. 84-65 §2)

§ 7.12.020. Crimes and Misdemeanors Defined.

A "crime" for purposes of this title is an offense for which a sentence of imprisonment in jail is authorized, and all crimes for purposes of this title are misdemeanors.

(Ord. 84-65 §2)

§ 7.12.030. Classification of Misdemeanors.

- (a) Misdemeanors are classified for the purpose of sentence into the following categories:
 - (1) Class A misdemeanors;
 - (2) Class B misdemeanors;
 - (3) Class C misdemeanors; and
 - (4) Unclassified misdemeanors.
- (b) The particular classification of each misdemeanor defined in this title is expressly designated in the section defining the crime. An offense defined outside this title which, because of the express sentence provided in the ordinance defining the crime, shall be considered an unclassified misdemeanor.
- (c) An offense defined by City ordinance, but without specification as to its classification or as to the penalty authorized upon conviction, shall be considered a Class A misdemeanor.

(Ord. 84-65 §2)

§ 7.12.040. Violation—Defined.

An offense is a "violation" if it is so designated in the chapter defining the offense or if the offense is punishable only by a fine, forfeiture, fine and forfeiture or other civil penalty. Conviction of a violation does not give rise to any disability or legal disadvantage based on conviction of a crime.

(Ord. 84-65 §2)

§ 7.12.050. Violation—Classification.

- (a) Any violation defined in this title is expressly designated in the section defining the offense. Any offense defined outside of this title which is punishable as provided in Section

7.12.040 shall be considered a violation.

- (b) Violations are not classified.
(Ord. 84-65 §2)

§ 7.12.060. Attempt to Commit a Crime Defined.

- (a) A person is guilty of an attempt to commit a crime when he or she intentionally engages in conduct which constitutes a substantial step toward the commission of the crime.
- (b) An attempt is a:
- (1) Class B misdemeanor, if the offense attempted is a Class A misdemeanor;
 - (2) Class C misdemeanor, if the offense attempted is a Class B misdemeanor;
 - (3) Violation, if the offense attempted is a Class C misdemeanor, or an unclassified misdemeanor.

(Ord. 84-65 §2)

**CHAPTER 7.16
DISPOSITION OF OFFENDERS**

§ 7.16.010. Sentences for Misdemeanors.

Sentences for misdemeanors shall be for a definite term. The Court shall fix the term of imprisonment within the following maximum limitations:

- (1) For a Class A misdemeanor, 1 year;
- (2) For a Class B misdemeanor, 6 months;
- (3) For a Class C misdemeanor, 30 days;
- (4) For an unclassified misdemeanor, as provided in the chapter defining the crime.

(Ord. 84-6-5 §2)

§ 7.16.020. Fines for Misdemeanors and Violations.

- (a) A sentence to pay a fine for a misdemeanor shall be a sentence to pay an amount, fixed by the Court, not exceeding:
 - (1) Two thousand five hundred dollars for a Class misdemeanor;
 - (2) One thousand dollars for a Class B misdemeanor;
 - (3) Five hundred dollars for a Class C misdemeanor.
- (b) A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the Court, as provided in the chapter defining the crime.
- (c) A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the Court, not exceeding two hundred fifty dollars.
- (d) If a person has gained money or property through the commission of a misdemeanor or violation, then upon conviction thereof the Court, instead of imposing the fine authorized for the offense under subsection (1), (2) or (3) of this section, may sentence the defendant to pay an amount fixed by the Court, not exceeding double the amount of the defendant's gain from the commission of the offense. In that event, ORS 161.625 (4) and (5) apply.
- (e) This section shall not apply to corporation.

(Ord. 84-65 §2)

§ 7.16.030. Criteria for Imposition of Fines.

In determining whether to impose a fine and its amount, the Court shall consider:

- (1) The financial resources of the defendant and the burden that payment of a fine will impose, with due regard to the other obligations of the defendant; and
- (2) The ability of the defendant to pay a fine on an installment basis or on other conditions to be fixed by the Court.

(Ord. 84-65 §2)

§ 7.16.040. Fines for Corporations.

- (a) A sentence to pay a fine when imposed on a corporation for an offense in this title or for an offense defined outside of this title for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the Court, not exceeding:
- (1) Five thousand dollars when the conviction is of a Class A misdemeanor or of an unclassified misdemeanor for which a term of imprisonment of more than six months is authorized;
 - (2) Two thousand five hundred dollars when the conviction is of a Class B misdemeanor or of an unclassified misdemeanor for which the authorized term of imprisonment is not more than six months;
 - (3) One thousand dollars when the conviction is of a Class C misdemeanor or an unclassified misdemeanor for which the authorized term of imprisonment is not more than thirty days;
 - (4) Five hundred dollars when the conviction is of a violation.
- (b) A sentence to pay a fine, when imposed on a corporation for an offense defined outside of this title, if a special fine for a corporation is provided in the chapter defining the offense, shall be a sentence to pay an amount, fixed by the Court, as provided in the chapter defining the offense.

(Ord. 84-65 §2)

§ 7.16.050. Costs.

- (a) The Court may require a convicted defendant to pay as costs those expenses specially incurred by the City in prosecuting the defendant. Costs include the compensation of counsel appointed pursuant to ORS 135.045 or 135.050 and expenses approved under ORS 135.055 (5). Cost shall not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law.
- (b) The Court, after the conclusion of an appeal of its initial judgment of conviction, may include in its final judgment or modify the judgment to include a requirement that a convicted defendant pay as costs the compensation of counsel appointed pursuant to ORS 138.500, including counsel who is the public defender established by ORS 151.280 or counsel who is under contract to provide services for the appeal pursuant to ORS 151.150, and costs and expenses allowed by the Appellate Court under ORS 138.500 (3).
- (c) The Court shall not sentence a defendant to pay costs unless the defendant is or may be able to pay them. In determining the amount and method of payment of costs, the Court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.
- (d) A defendant who has been sentenced to pay costs and who is not in contumacious default in the payment thereof may at any time petition the Court which sentenced the defendant for remission of the payment of costs or of any unpaid portion thereof. If it appears to the satisfaction of the Court that payment of the amount due wail impose manifest hardship on

the defendant or the immediate family of the defendant, the Court may remit all or part of the amount due in costs, or modify the method of payment under ORS 161.675.

(Ord. 84-65 §2)

§ 7.16.060. Payment of Fines and Costs.

- (a) When a defendant is sentenced to pay a fine or costs or ordered to make restitution, as defined in ORS 137.103, the Court may order payment to be made forthwith or within a specified period of time or in specified installments. If a defendant is sentenced to a term of imprisonment, an order of payment of a fine, costs or restitution shall not be enforceable during the period of imprisonment unless the Court expressly finds that the defendant has assets to pay all or part of the amounts ordered at the time of sentencing.
- (b) When a defendant sentenced to pay a fine or costs or ordered to make restitution is also placed on probation or imposition or execution of sentence is suspended, the Court may make payment of the fine or costs or the making of restitution a condition of probation or suspension of sentence.

(Ord. 84-65 §2)

§ 7.16.070. Nonpayment of Fines or Costs—Consequences.

- (a) When a defendant sentenced to pay a fine or to make restitution, as defined in ORS 137.103, defaults in the payment thereof or of any installment, the Court on motion of the City Attorney or upon its own motion may require him or her to show cause why his or her default should not be treated as contempt of court, and may issue a show cause citation or a warrant of arrest for his or her appearance.
- (b) Unless the defendant shows that his or her default was not attributable to an intentional refusal to obey the order of the Court or to a failure on his or her part to make a good faith effort to make the payment, the Court may find that his or her default constitutes contempt and may order him or her committed until the fine or the restitution, or a specified part thereof, is paid.
- (c) When a fine or an order of restitution is imposed on a corporation or unincorporated association, it is the duty of the person authorized to make disbursement from the assets of the corporation or association to pay the fine or make the restitution from those assets, and his or her failure to do so may be held to be contempt unless he or she makes the showing required in subsection (b) of this section.
- (d) The term of imprisonment for contempt for nonpayment of fines or failure to make restitution shall be set forth in the commitment order, and shall not exceed one day for each twenty-five dollars of the fine or restitution, thirty days if the fine or order of restitution was imposed upon conviction of a violation or misdemeanor, or one year in any other case, whichever is the shorter period. A person committed for nonpayment of a fine or failure to make restitution shall be given credit toward payment for each day of imprisonment at the rate specified in the commitment order.
- (e) If it appears to the satisfaction of the Court that the default in the payment of a fine or restitution is not contempt, the Court may enter an order allowing the defendant additional time for payment, reducing the amount thereof or of each installment or revoking the fine or order of restitution or the unpaid portion thereof in whole or in part.

(f) A default in the payment of a fine or costs or failure to make restitution or any installment thereof may be collected by any means authorized by law for the enforcement of a judgment. The levy of execution for the collection of a fine or restitution shall not discharge a defendant committed to imprisonment for contempt until the amount of the fine or restitution has actually been collected.

(Ord. 84-65 §2)

CHAPTER 7.20
OFFENSES AGAINST PERSONS

§ 7.20.010. Assault in the Fourth Degree.

- (a) A person commits the crime of "assault in the fourth degree" if he:
 - (1) Intentionally, knowingly or recklessly causes physical injury to another; or
 - (2) With criminal negligence causes physical injury to another by means of a deadly weapon.
- (b) Assault in the fourth degree is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.20.020. Menacing Defined.

- (a) A person commits the crime of "menacing" if, by word or conduct, he or she intentionally attempts to place another person in fear of imminent serious physical injury.
- (b) Menacing is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.20.030. Recklessly Endangering Another Person.

- (a) A person commits the crime of "recklessly endangering another person" if he or she recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.
- (b) Recklessly endangering another person is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.20.040. Harassment.

- (a) A person commits the crime of harassment if, with intent to harass, annoy or alarm another person, the actor:
 - (1) Subjects another to offensive physical contact;
 - (2) Subjects another to alarm by conveying a false report, known by the conveyor to be false, concerning death or serious physical injury to a person, which report reasonably would be expected to cause alarm;
 - (3) Subjects another to alarm by conveying a telephonic or written threat to inflict serious physical injury on that person or to commit a felony involving the person or property of that person or any member of that person's family, which threat reasonably would be expected to cause alarm;
 - (4) Subjects another to alarm or annoyance by telephonic use of obscenities or description of sexual excitement or sadomasochistic abuse or sexual conduct as defined in ORS 167.060 including intercourse, masturbation, cunnilingus, fellatio or anilingus, which use or description is patently offensive and otherwise obscene as defined in ORS 167.087 (2) (b) and (c); or

- (5) Causes the telephone of another to ring with no communicative purpose.
 - (b) A person is criminally liable for harassment if the person knowingly permits any telephone under the person's control to be used in violation of subsection (a) of this section.
 - (c) Harassment is a Class B misdemeanor.
- (Ord. 84-65 §2)

§ 7.20.050. Criminal Defamation.

- (a) A person commits the crime of "criminal defamation" if, with intent to defame another person, he or she knowingly:
 - (1) Publishes or causes to be published false and scandalous durable matter concerning such other person; or
 - (2) Publishes or causes to be published false and scandalous matter concerning such other person by means of a radio or television broadcast.
 - (b) It shall be a defense to any prosecution under this section that:
 - (1) The matter published was true and was published with good motives and for justifiable ends; or
 - (2) The publication is protected by an absolute or qualified privilege.
 - (c) Criminal defamation is a Class A misdemeanor.
- (Ord. 84-65 §2)

§ 7.20.060. Assaulting a Public Safety Officer.

- (a) A person commits the crime of assaulting a public safety officer if the person intentionally or knowingly causes physical injury to another person, knowing the other person to be a peace officer, corrections officer or firefighter, and while such other person is acting in the course of official duty.
 - (b) Assailing a public safety officer is a Class A misdemeanor. A person convicted under this section shall be sentenced to not less than seven days of imprisonment and shall not be granted bench parole, probation or suspension of sentence before serving at least seven days of the sentence.
- (Ord. 84-65 §2)

**CHAPTER 7.24
OFFENSES AGAINST PROPERTY**

§ 7.24.010. Theft—Definitions.

As used in this chapter, unless the context requires otherwise:

"Appropriate property of another to oneself or a third person" or "appropriate" means to:

- (a) Exercise control over property of another, or to aid a third person to exercise control over property of another, permanently or for so extended a period or under such circumstances as to acquire the major portion of the economic value or benefit of such property; or
- (b) Dispose of the property of another for the benefit of oneself or a third person.

"Deprive another of property" or "deprive" means to:

- (a) Withhold property of another or cause property of another to be withheld from him or her permanently or so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him or her; or
- (b) Dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.

"Obtain" includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another.

"Owner of property taken, obtained or withheld" or "owner" means any person who has a right to possession thereof superior to that of the taken, obtainer or withholdier.

"Property" means any article, substance or thing of value, including but not limited to, money, tangible and intangible personal property, real property, choses-in-action, evidence of debt or of contract.

(Ord. 84-65 §2)

§ 7.24.020. Theft—Accusation—Proof.

- (a) Conduct denominated theft under Section 7.24.040 constitutes a single offense.
- (b) An accusation of theft is sufficient if it alleges that the defendant committed theft of property of the nature or value required for the commission of the crime charged, without designating the particular way or manner in which the theft was committed.
- (c) Proof that the defendant engaged in conduct constituting theft as defined in Section 7.24.040 is sufficient to support any information or complaint for theft.

(Ord. 84-65 §2)

§ 7.24.030. Theft—Defined.

A person commits "theft" when, with intent to deprive another of property or to appropriate property to him or herself or to a third person, he:

- (1) Takes, appropriates, obtains or withholds such property from an owner thereof; or
- (2) Commits theft of property lost, mislaid or delivered by mistake as provided in Section

7.24.050; or

- (3) Commits theft by deception as provided in Section 7.24.060; or
 - (4) Commits theft by receiving as provided in Section 7.24.070.
- (Ord. 84-65 §2)

§ 7.24.040. Theft—In the Second Degree.

- (a) A person commits the crime of "theft in the second degree" if, by other than extortion, he:
 - (1) Commits theft as defined in Section 7.24.030; and
 - (2) The total value of the property in a single or aggregate transaction is fifty dollars or more but is under two hundred dollars in a case of theft by receiving and under five hundred dollars in any other case.
- (b) Theft in the second degree is a Class A misdemeanor.
(Ord. 84-65 §2; Ord. 87-54 §1)

§ 7.24.045. Theft—In the Third Degree.

- (a) A person commits the crime of theft in the third degree if, by other than extortion, he:
 - (1) Commits theft as defined in Section 7.24.030; and
 - (2) The total value of the property in a single or aggregate transaction is under fifty dollars.
- (b) Theft in the third degree is a Class C misdemeanor.
(Ord. 87-54 §2)

§ 7.24.050. Theft—Lost, Mislaid Property.

A person who comes into control of property of another that he or she knows or has good reason to know to have been lost, mislaid or delivered under a mistake as to the nature or amount of the property or the identity of the recipient, commits theft if, with intent to deprive the owner thereof, he or she fails to take reasonable measures to restore the property to the owner.
(Ord. 84-65 §2)

§ 7.24.060. Theft—By Deception.

- (a) A person, who obtains property of another thereby, commits "theft by deception" when, with intent to defraud, he:
 - (1) Creates or confirms another's false impression of law, value, intention or other state of mind which the actor does not believe to be true, or;
 - (2) Fails to correct a false impression which he or she previously created or confirmed; or
 - (3) Prevents another from acquiring information pertinent to the disposition of the property involved; or

- (4) Sells or otherwise transfers or encumbers property, failing to disclose a lien, adverse claim or other legal impediment to the enjoyment of the property, whether such impediment is or is not valid, or is or is not a matter of official record; or
 - (5) Promises performance which he or she does not intend to perform or knows will not be performed.
- (b) "Deception" does not include falsity as to matters having no pecuniary significance, or representations unlikely to deceive ordinary persons in the group addressed.
- (c) In a prosecution for theft by deception the defendant's intention or belief that a promise would not be performed shall not be established by or inferred from the fact alone that such promise was not performed.
- (d) In a prosecution for theft by deception committed by means of a bad check, it is *prima facie* evidence of knowledge that the check or order would not be honored if:
 - (1) The drawer has no account with the drawee at the time the check or order is drawn or uttered; or
 - (2) Payment is refused by the drawee for lack of funds, upon presentation within thirty days after the date of utterance, and the drawer fails to make good within ten days after receiving notice of refusal.

(Ord. 84-65 §2)

§ 7.24.070. Theft—By Receiving.

- (a) A person commits "theft by receiving" if he or she receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of theft.
- (b) "Receiving" means acquiring possession, control or title, or lending on the security of the property.

(Ord. 84-65 §2)

§ 7.24.080. Right of Possession.

Right of possession of property is as follows:

- (1) A person who has obtained possession of property by theft or other illegal means shall be deemed to have a right of possession superior to that of a person who takes, obtains or withdraws the property from him or her by means of theft.
- (2) A joint or common owner of property shall not be deemed to have a right of possession of the property superior to that of any other joint or common owner of the property.
- (3) In the absence of a specific agreement to the contrary, a person in lawful possession of property shall be deemed to have a right of possession superior to that of a person having only a security interest in the property, even if legal title to the property lies with the holder of the security interest pursuant to a conditional sale contract or other security agreement.

(Ord. 84-65 §2)

§ 7.24.090. Value of Stolen Property.

For the purposes of this chapter, the value of property shall be ascertained as follows:

- (1) Except as otherwise specified in this section, "value" means the market value of the property at the time and place of the crime, or if such cannot reasonably be ascertained, the cost of replacement of the property within a reasonable time after the crime.
- (2) Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value, shall be evaluated as follows:
 - (A) The value of an instrument constituting an evidence of debt, including but not limited to, a check, draft or promissory note, shall be considered the amount due or collectible thereon or thereby.
 - (B) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be considered the greatest amount of economic loss which the owner might reasonably suffer because of the loss of the instrument.
- (3) When the value of the property cannot reasonably be ascertained, it shall be presumed to be an amount less than two hundred dollars.

(Ord. 84-65 §2)

§ 7.24.100. Theft—Defenses.

- (a) In a prosecution for theft it is a defense that the defendant acted under an honest claim or right, in that:
 - (1) He was unaware that the property was that of another; or
 - (2) He reasonably believed that he or she was entitled to the property involved or had a right to acquire or dispose of it as he or she did.
- (b) In a prosecution for "theft by receiving," it is a defense that the defendant received, retained, concealed or disposed of the property with the intent of restoring it to the owner.
- (c) It is a defense that the property involved was that of the defendant's spouse, unless the parties were not living together as man and wife and were living in separate abodes at the time of the alleged theft.

(Ord. 84-65 §2)

§ 7.24.110. Theft—Of Services.

- (a) A person commits the crime of theft of services if:
 - (1) With intent to avoid payment therefor, he or she obtains services that are available only for compensation by force, threat, deception or other means to avoid payment for the services; or
 - (2) Having control over the disposition of labor or of business, commercial or industrial equipment or facilities of another, he or she uses or diverts to the use of him or herself or a third person such labor, equipment or facilities with intent to derive a commercial benefit for him or herself or a third person not entitled thereto.

- (b) As used in this section, "services" includes but is not limited to, labor, professional services, toll facilities, transportation, telephone or other communications service, entertainments, the supplying of food, lodging or other accommodations in hotels, restaurants or elsewhere, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water.
 - (c) Absconding without payment or offer to pay for hotel, restaurant or other services for which compensation is customarily paid immediately upon the receiving of them is prima facie evidence that the services were obtained by deception.
 - (d) Theft of services is a Class A misdemeanor if the aggregate total amount of services the person obtains or attempts to obtain is under two hundred dollars.
- (Ord. 84-65 §2)

§ 7.24.120. Criminal Trespass—Definitions.

As used in Sections 7.24.120 through 7.24.180, except as the context requires otherwise:

"Building" in addition to its ordinary meaning, includes any booth, vehicle, boat, aircraft or other structure adapted for overnight accommodation of persons or for carrying on business therein. Where a building consists of separate units, including but not limited to, separate apartments, offices or rented rooms, each unit is, in addition to being a part of such building, a separate building.

"Dwelling" means a building which regularly or intermittently is occupied by a person lodging therein at night, whether or not a person is actually present.

"Enter or remain unlawfully" means:

- (A) To enter or remain in or upon premises when the premises, at the time of such entry or remaining, are not open to the public or when the entrant is not otherwise licensed or privileged to do so; or
- (B) To fail to leave premises that are open to the public after being lawfully directed to do so by the person in charge.

"Open to the public" means premises which by their physical nature, function, custom, usage, notice or lack thereof or other circumstances at the time would cause a reasonable person to believe that no permission to enter or remain is required. Privately owned premises displaying a sign prohibiting door-to-door solicitation or canvassing are not open to the public. Privately owned premises are not open to the public, including door-to-door solicitors and canvassers, between nine p.m. and eight a.m.

"Person in charge" means a person, his or her representative or his or her employee who has lawful control of premises by ownership, tenancy, official position or other legal relationship. It includes but is not limited to the person, or holder of a position, designated as the person or position-holder in charge by the Governor, board, commission or governing body of any political subdivision of this state.

"Premises" includes any building and any real property, whether privately or publicly owned.

"Property of another" means property in which anyone other than the actor has a legal or equitable interest that the actor has no right to defeat or impair, even though the actor may also have such an interest in the property.

(Ord. 83-01 §2; Ord. 84-65 §2)

§ 7.24.130. Criminal—In the Second Degree.

- (a) A person commits the crime or "criminal trespass in the second degree" if he or she enters or remains unlawfully in or upon premises.
- (b) Criminal trespass in the second degree is a Class C misdemeanor.
(Ord. 84-65 §2)

§ 7.24.135. Criminal Trespass—School District #23J.

- (a) A person commits the crime of criminal trespass in the second degree if he or she permits, brings or allows any horse, mule, donkey or other such animal, whether or not attended, at any time on any site or lands of School District #23J within the City, improved for school purposes.
- (b) A person commits the crime of criminal trespass in the second degree if he or she uses, operates or rides upon any motorized vehicle on or within any lands of School District #23J within the City, improved for school site purposes, other than on or within driveways, parking areas and other areas specially designated for vehicular use, unless directed to do so by the administrative officers of the district.
- (c) Violation of this section shall constitute a Class C misdemeanor and upon conviction shall be subject to the penalties as provided by Chapter 7.16.
(Ord. 84-65 §2)

§ 7.24.137. Criminal Trespass in the Second Degree by a Guest.

A guest commits the crime of trespass in the second degree if that guest intentionally remains unlawfully in a transient lodging after the departure date of the guest's reservation without the approval of the hotelkeeper. "Guest" means a person who is registered at a hotel and is assigned to transient lodging, and includes any individual accompanying the person.

(Ord. 84-65 §2)

§ 7.24.140. Criminal Trespass—In the First Degree.

- (a) A person commits the crime of "criminal trespass in the first degree" if he or she enters or remains unlawfully in a dwelling.
- (b) Criminal trespass in the first degree is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.24.145. Criminal Trespass While in Possession of Firearm.

- (a) A person commits the crime of criminal trespass while in possession of a firearm who, while in possession of a firearm, enters or remains unlawfully in or upon premises.
- (b) Criminal trespass while in possession of a firearm is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.24.150. Reckless Burning.

- (a) A person commits the crime of burning if he or she recklessly damages property or another

by fire or explosion.

- (b) Reckless burning is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.24.160. Criminal Mischief—In the Third Degree.

- (a) A person commits the crime of "criminal mischief in the third degree" if, with intent to cause substantial inconvenience to the owner or to another person, and having no right to do so nor reasonable ground to believe that he or she has such right, he or she tampers or interferes with property of another.
- (b) Criminal mischief in the third degree is a Class C misdemeanor.
(Ord. 84-65 §2)

§ 7.24.170. Criminal Mischief—In the Second Degree.

- (a) A person commits the crime of "criminal mischief in the second degree" if:
- (1) He violates Section 7.24.160 and as a result thereof, damages property in an amount exceeding one hundred dollars; or
- (2) Having no right to do so nor reasonable ground to believe that he or she has such right, he or she intentionally damages property of another, or he or she recklessly damages property of another in an amount exceeding one hundred dollars.
- (b) Criminal mischief in the second degree is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.24.180. Possession of Burglar's Tools.

- (a) A person commits the crime of "possession of burglar's tools" if he or she possesses any burglar tool with the intent to use the tool or knowing that some person intends to use the tool to commit or facilitate a forcible entry into premises or theft by a physical taking.
- (b) "Burglar tool" means an acetylene torch, electric arc, burning bar, thermal lance, oxygen lance or other similar device capable of burning through steel, concrete or other solid material, or nitroglycerine, dynamite, gunpowder or any other explosive, tool, instrument or other article adapted, designed or commonly used for committing or facilitating a forcible entry into premises or theft by a physical taking.
- (c) Possession of burglar's tools is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.24.190. Dog Poisoning.

- (a) A person commits the offense of "poisoning a dog or dogs" if with intent to kill or injure any dog or dogs, he or she puts out or places, where it is likely to be eaten by any dog or dogs, any meat, food or substance containing poison, ground glass or other substance likely to kill or seriously injure any dog.
- (b) The offense of poisoning dogs is a Class B misdemeanor.
(Ord. 84-65 §2)

§ 7.24.200. Destruction of Official Notices or Signs.

- (a) A person commits the offense of "destruction of official notices or signs" if he or she defaces or tears down any official notice or bulletin, or any official sign or signal posted or placed in conformity with law.
- (b) Destruction of official notices or signs is a violation.
(Ord. 84-65 §2)

**CHAPTER 7.28
OBSTRUCTING LAW ENFORCEMENT**

§ 7.28.010. False Swearing.

- (a) A person commits the crime of "false swearing" if he or she makes a false sworn statement, knowing it to be false.
- (b) False swearing is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.28.020. Unsworn Falsification.

- (a) A person commits the crime of "unsworn falsification" if he or she knowingly makes any false written statement to a public servant in connection with an application for any benefit.
- (b) Unsworn falsification is a Class B misdemeanor.
(Ord. 84-65 §2)

§ 7.28.030. Failure to Appear in the Second Degree.

- (a) A person commits the crime of failure to appear in the second degree if, having by court order been released from custody or a correctional facility upon a release agreement or security release upon the condition that he or she will subsequently appear personally in connection with a charge against him or her of having committed a misdemeanor or violation, he or she intentionally fails to appear as required.
- (b) Failure to appear in the second degree is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.28.040. Obstructing Governmental Administration.

- (a) A person commits the crime of obstructing governmental or judicial administration if the person intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function by means of intimidation, force, physical or economic interference or obstacle.
- (b) This section shall not apply to the obstruction of unlawful governmental or judicial action or interference with the making of an arrest.
- (c) Obstructing governmental or judicial administration is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.28.050. Refusing to Assist Peace Officer.

- (a) A person commits the offense of "refusing to assist a peace officer" if upon command by a person known to him or her to be a peace officer he or she unreasonably refuses or fails to assist in effecting an authorized arrest or preventing another from committing a crime.
- (b) Refusing to assist a peace officer is a violation.
(Ord. 85-10 §1)

§ 7.28.060. Refusing to Assist Fire-Fighting Operations.

- (a) A person commits the offense of "refusing to assist in fire-fighting operations" if:
- (1) Upon command by a person known by him or her to be a firefighter he or she unreasonably refuses or fails to assist in extinguishing a fire or protecting property threatened thereby; or
 - (2) Upon command by a person known by him or her to be a firefighter or peace officer he or she intentionally and unreasonably disobeys a lawful order relating to his or her conduct in the vicinity of a fire.
- (b) Refusing to assist in fire-fighting operations is a violation.
(Ord. 84-65 §2)

§ 7.28.070. Tampering—With Witness.

- (a) A person commits the crime of "tampering with a witness" if:
- (1) He knowingly induces or attempts to induce a witness or a person he or she believes may be called as a witness in any official proceeding to offer false testimony or unlawfully withhold any testimony; or
 - (2) He knowingly induces or attempts to induce a witness to absent him or herself from any official proceeding to which he or she has been legally summoned.
- (b) Tampering with a witness is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.28.080. Tampering—With Physical Evidence.

- (a) A person commits the crime of "tampering with physical evidence" if, with intent that it be used, introduced, rejected or unavailable in an official proceeding which is then pending or to the knowledge of such person is about to be instituted, he:
- (1) Destroys, mutilates, alters, conceals or removes physical evidence impairing its verity or availability; or
 - (2) Knowingly makes, produces or offers any false physical evidence; or
 - (3) Prevents the production of physical evidence by an act of force, intimidation, or deception against any person.
- (b) Tampering with physical evidence is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.28.090. Tampering—With Public Records.

- (a) A person commits the crime of "tampering with public records" if, without lawful authority, he or she knowingly destroys, mutilates, conceals, removes, makes a false entry in or falsely alters any public record.
- (b) Tampering with public records is a Class A misdemeanor.
(Ord. 84-65 §2)

§ 7.28.100. Resisting Arrest.

- (a) A person commits the crime of "resisting arrest" if he or she intentionally resists a person known by him or her to be a peace officer in making an arrest.
- (b) "Resists," as used in this section, means the use or threatened use of violence, physical force or any other means that creates a substantial risk of physical injury to any person.
- (c) It is no defense to a prosecution under this section that the peace officer lacked legal authority to make the arrest, provided he or she was acting under color of his or her official authority.
- (d) Resisting arrest is a Class A misdemeanor.

(Ord. 84-65 §2)

§ 7.28.110. Initiating False Report.

- (a) A person commits the crime of "initiating a false report" if he or she knowingly initiates a false alarm or report which is transmitted to a fire department, law enforcement agency or other organization that deals with emergencies involving danger to life or property.
- (b) Initiating a false report is a Class C misdemeanor.

(Ord. 84-65 §2)

§ 7.28.115. Giving False Information to Police Officer for a Citation.

- (a) A person commits the crime of giving false information to a peace officer for a citation if the person knowingly uses or gives a false or fictitious name, address or date of birth to any peace officer for the purpose of the officer's issuing or serving the person a citation under authority of ORS 133.045 through 133.080, 133.110 and 156.050.
- (b) A person who violates this section commits a Class A misdemeanor.

(Ord. 84-65 §2)

§ 7.28.120. Criminal Impersonation.

- (a) A person commits the crime of criminal impersonation if with intent to obtain a benefit or to injure or defraud another he or she falsely impersonates a public servant and does an act in such assumed character.
- (b) Criminal impersonation is a Class A misdemeanor.

(Ord. 84-65 §2)

§ 7.28.130. Hindering Prosecution.

- (a) A person commits the crime of hindering prosecution if, with intent to hinder the apprehension, prosecution, conviction or punishment of a person who has committed a crime or violation or with the intent to assist a person who has committed a crime or violation in profiting or benefiting from the commission of the crime, he:
 - (1) Harbors or conceals such person; or
 - (2) Warns such person of impending discovery or apprehension; or

- (3) Provides or aids in providing such person with money, transportation, weapon, disguise or other means of avoiding discovery or apprehension; or
 - (4) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person; or
 - (5) Suppresses by any act of concealment, alteration or destruction physical evidence which might aid in the discovery or apprehension of such person, or
 - (6) Aids such person in securing or protecting the proceeds of the crime.
- (b) Hindering prosecution is a Class A misdemeanor.
(Ord. 84-65 §2)
- § 7.28.140. Tampering with Police Dogs.**
- (a) A person commits the crime of tampering with a dog used for law enforcement purposes if:
 - (1) The person intentionally tampers or interferes with a dog while the dog is acting in the line of duty by calling the dog, or by other behavior attempts to distract the dog from doing or attempting to do what it has been instructed to do by a police officer;
 - (2) The person intentionally teases, harasses, or incites a dog while the dog is caged, being transported, exhibited or exercised, or while it is within a police vehicle; or
 - (3) The person intentionally tortures, strikes, injures, or kills a dog.
 - (b) Tampering with a dog used for law enforcement purposes is a Class A misdemeanor.
(Ord. 88-26 §1)

**CHAPTER 7.32
OFFENSES AGAINST PUBLIC ORDER**

§ 7.32.010. Disorderly Conduct.

- (a) A person commits the crime of "disorderly conduct" if, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, he or she:
 - (1) Engages in fighting or in violent, tumultuous or threatening behavior; or
 - (2) Makes unreasonable noise; or
 - (3) Disturbs any lawful assembly of persons without lawful authority; or
 - (4) Obstructs vehicular or pedestrian traffic on a public way; or
 - (5) Congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or
 - (6) Initiates or circulates a report, knowing it to be false, concerning an alleged or impending fire, explosion, crime, catastrophe or other emergency; or
 - (7) Creates a hazardous or physically offensive condition by any act which he or she is not licensed or privileged to do.
- (b) Disorderly conduct is a Class B misdemeanor.
(Ord. 84-65 §2)

§ 7.32.040. Abuse of Venerated Objects.

- (a) A person commits the crime of "abuse of venerated objects" if he or she intentionally abuses a public monument or structure, a place of worship or burial, or the national or state flag.
- (b) As used in this section, "abuse" means to deface, damage, defile or otherwise physically mistreat in a manner likely to outrage public sensibilities.
- (c) Abuse of venerated objects is a Class C misdemeanor.
(Ord. 84-65 §2)

§ 7.32.050. Offensive Littering.

- (a) A person commits the crime of "offensive littering" if he or she creates an objectionable stench or degrades the beauty or appearance of property or detracts from the natural cleanliness or safety of property by intentionally:
 - (1) Discarding or depositing any rubbish, trash, garbage, debris or other refuse upon the land of another without permission of the owner, or upon any public way or in or upon any public transportation facility; or
 - (2) Draining, or causing or permitting to be drained, sewage or the drainage from a cesspool, septic tank, recreational or camping vehicle waste-holding tank or other contaminated source, upon the land of another without permission of the owner, or upon any public way; or

- (3) Permitting any rubbish, trash, garbage, debris or other refuse to be thrown from a vehicle which he or she is operating; except that this subsection shall not apply to a person operating a vehicle transporting passengers for hire subject to regulation by the Interstate Commerce Commission or the Public Utility Commissioner.
- (b) As used in this section, "public way" includes, but is not limited to, roads, streets, alleys, lanes, trails, beaches, parks and all recreational facilities operated by the state, a county or local municipality for use by the general public.
- (c) As used in this section, "public transportation facility" has the meaning provided for in ORS 164.365.
- (d) Offensive littering is a Class C misdemeanor.

(Ord. 84-65 §2)

§ 7.32.060. Creating a Hazard.

- (a) A person commits the crime of "creating a hazard" if:
- (1) He intentionally maintains or leaves in a place accessible to children a container with a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot easily be opened from the inside; or
- (2) Being the owner or otherwise having possession of property upon which there is a well, cistern, cesspool, excavation or other hole of a depth of four feet or more and a top width of twelve inches or more, he or she intentionally fails or refuses to cover or fence it with a suitable protective construction.
- (b) Creating a hazard is a Class B misdemeanor.

(Ord. 84-65 §2)

§ 7.32.070. Improper Garbage Transportation.

- (a) It is unlawful for any person to carry any garbage, filth, or refuse along any sidewalk or transport any garbage, swill, or refuse through any street, except in a covered wagon or in a tightly covered box or apparatus, such wagon, box or apparatus to be constructed and so covered, and such covering to be so closed or fastened down over the entire contents of the load as to prevent such contents from leaking, spilling, dropping or in any manner being deposited in the street, or from being exposed to the open air, during such transportation.
- (b) Improper garbage transportation is a violation.

(Ord. 72-21 Art. 8 §12)

§ 7.32.080. Blasting Without Permit.

- (a) No person shall, without having first received a permit from the City Engineer, explode or cause to be exploded any explosive for any purpose. "Explosive" means a chemical compound, mixture or device that is commonly used or intended for the purpose of producing a chemical reaction resulting in a substantially instantaneous release of gas and heat, including, but not limited to, dynamite, blasting powder, nitroglycerin, blasting caps and nitro-jelly, but excluding fireworks, as defined by Oregon Revised Statutes 480.110 (1)

1984 Oregon Laws; black powder, smokeless powder, small arms ammunition and small arms ammunition primers.

- (b) The City Engineer, before issuing a permit for the use of explosives, shall require the person to whom the permit is to be issued to:
 - (1) Complete an application form and state the dates, time and specific place where the explosives will be used, the purpose for which the explosive will be used, the type of explosive which will be used, the maximum number of units to be used, and the name and address of the person who will be using the explosives;
 - (2) Provide a letter or other evidence from the insurance carrier of the person to whom the permit will be issued that:
 - (3) The applicant is to pay a fee as prescribed by the City Council and by Chapter 3.32 of this code.
 - (A) The policy shall remain in continuous effect for the time period for which the permit is issued. The letter or other evidence shall identify the time period for which the insurance shall remain in effect; and
 - (B) The person to whom the permit will be issued has insurance coverage to the amount required under subsection (c) of this section.
- (c) No permit for the use of explosives shall be issued by the City Engineer until the person to whom the permit will be issued provides evidence of insurance for such amounts as the City Engineer deems necessary to protect the City and any person, or property in the City from all damage or loss that might result from the use of explosives and to protect the City, its officers, agents and employees from all claims for such damage or loss. In no case shall the required insurance coverage be less than the following:
 - (1) Fifty thousand dollars to any claimant for any number of claims for damage to or destruction of property, including consequential damages, arising out of a single accident or occurrence;
 - (2) One hundred thousand dollars to any claimant for all other claims arising out of a single accident or occurrence; and
 - (3) Three hundred thousand dollars for any number of claims arising out of a single accident or occurrence.
- (d) The City Engineer shall have the power and authority to limit the time, dates and force of the explosions to be made.
- (e) The City Engineer shall have the authority to deny an application for a permit upon a finding that:
 - (1) The requirements of these code provisions have not been satisfied;
 - (2) There is a danger to the public safety, surrounding properties, or individual persons; or
 - (3) The applicant does not have a certificate of possession required under state law.

- (f) The permit shall not be transferable to any other person, to any other location or to any other time or date. It shall be specific to the person, to the location and to the other information required by these code provisions. The use of explosives in a manner other than provided on the permit shall be deemed to constitute an offense of using explosives without a permit.
- (g) The offense of using explosives without a permit shall be a Class A misdemeanor.
(Ord. 72-21 Art. 8 §13; Ord. 84-41 ; Ord. 84-56 §1)

§ 7.32.110. Public Indecency.

- (a) A person commits the crime of "public indecency in the first degree" if while in, or in view of, a public place he or she performs:
- (1) An act of sexual intercourse; or
 - (2) An act of deviate sexual intercourse; or
 - (3) An act of exposing his or her genitals with the intent of arousing the sexual desire of him or herself or another person.
- (b) A person commits the crime of "public indecency in the second degree" if he or she urinates or defecates in a public place or a place visible from a public place (other than a public restroom).
- (c) Public indecency in the first degree is a Class A misdemeanor.
- (d) Public indecency in the second degree is a violation.
(Ord. 72-21 Art. 5 §4; Ord. 81-36 §1; Ord. 81-126 §1)

§ 7.32.120. Discharge of Weapons.

- (a) No person other than an authorized peace officer shall fire or discharge within the City any gun or weapon which acts by force of gunpowder or other explosive, or by the use of jet or rocket propulsion except as may otherwise be expressly provided in this code.
- (b) The provisions of this section shall not be construed to prohibit the firing or discharging of any weapon:
- (1) By any person in the defense or protection of his or her property, person or family;
 - (2) At any place duly designated or commonly used for target practice;
 - (3) At any gunsmithing business, for which a business license by the City has been issued, and for which a construction design for a soundproof test shooting booth and bullet trap has been approved by the Chief of Police. Prior to the issuance of the business license, the shooting booth and bullet trap shall be inspected by the Chief of Police and the Building Official or their designee for compliance with the construction plans.
- (c) Violation of this section is a Class A misdemeanor.
(Ord. 73-14 §1; Ord. 83-60 §1; Ord. 85-17 §1)

§ 7.32.125. Carrying Loaded Firearms.

As used in this section, "firearm" means a pistol, revolver, gun, rifle or other mechanism, including a miniature weapon which projects a missile or shot by force of gunpowder or any other explosive, or by spring or by compressed air.

- (a) It is unlawful for any person to possess a firearm in a public place as that term is defined in ORS 161.015 unless all ammunition has been removed from the chamber and from the cylinder, clip or magazine. This section does not apply to or affect:
 - (1) a law enforcement officer in the performance of official duty;
 - (2) a member of the military in the performance of official duty;
 - (3) a person licensed to carry a concealed handgun;
 - (4) a person authorized to possess a loaded firearm while in or on a public building under ORS 166.370.
- (b) It is unlawful for any person possessing a firearm in a public place to refuse to permit a peace officer to inspect that firearm after the peace officer has identified him or herself as such.
- (c) Violation of any portion of subsections (a) and (b) is a Class A misdemeanor.
(Ord. 76-22 §1; Ord. 96-28)

§ 7.32.130. Carrying Concealed Weapons.

- (a) Except as provided in subsection (b) of this section, any person who carries concealed about his or her person in any manner any knife having a blade that projects or swings into position by force of a spring or by centrifugal force and commonly known as a switchblade knife, or any dirk, dagger, ice pick, slingshot, metal knuckles or any similar instrument by the use of which injury could be inflicted upon the person or property of any other person, commits a Class B misdemeanor.
- (b) Nothing in subsection (a) of this section applies to any peace officer as defined in ORS 133.005, whose duty it is to serve process or make arrests. Justices of the peace have concurrent jurisdiction to try any person charged with violating any of the provisions of subsection (a) of this section.
(Ord. 73-14 §1; Ord. 96-28)

§ 7.32.150. Use of Air Guns and Beanshooters.

- (a) It is unlawful for any person to use, cause to be used or encourage the use of any air gun, beanshooter, slingshot, bow and arrow, crossbow, or other similar contrivance, in or upon any street, park, lane or alley, or other public place.
- (b) Violation of this section shall be an unclassified misdemeanor and upon conviction a fine may be imposed not exceeding fifty dollars.
(Ord. 73-14 §1; Ord. 96-28)

§ 7.32.160. Manufacturing, Selling, Carrying or Possessing Slugging or Stabbing

Weapons.

Except as provided in ORS 166.515 or 166.520, any person who manufactures, causes to be manufactured, sells, keeps for sale, offers, gives, loans, carries or possesses an instrument or weapon having a blade which projects or swings into position by force of a spring or other device and commonly known as a switchblade knife or an instrument or weapon commonly known as a blackjack, slingshot, billy, sandclub, sandbag, sap glove, or metal knuckles, or who carries a dirk, dagger or stiletto, commits a Class A misdemeanor.

(Ord. 80-14 §1)

§ 7.32.170. Persons Permitted to Carry Blackjacks.

- (a) Peace officers are not prohibited from carrying or possessing an instrument commonly known as a blackjack or billy.
- (b) As used in subsection (1) of this section, the terms "blackjack" and "billy" do not include an instrument or weapon commonly known as a sap glove.

(Ord. 80-14 §1)

§ 7.32.180. Public Consumption of Alcoholic Beverage.

- (a) No person shall consume any alcoholic beverage in or upon any public place or premises open to the public, unless the public place or premises open to the public has been licensed by the Oregon Liquor Control Commission. For the purpose of this section, "public place" and "premises open to the public" does not include parks.
- (b) A person who violates this section commits a violation punishable by a fine of not more than \$250.00.

(Ord. 98-10)

**CHAPTER 7.34
CONTROLLED SUBSTANCES**

§ 7.34.010. Definitions.

As used in this chapter the words shall have the same meaning as set forth in ORS 475.005 unless the context requires otherwise.

(Ord. 84-65 §2)

§ 7.34.020. Frequenting a Place Where Controlled Substances Are Used.

- (a) A person commits the offense of frequenting a place where controlled substances are used if he or she keeps, maintains, frequents or remains at a place, while knowingly permitting persons to use controlled substances in such place or to keep or sell them in violation of ORS 475.005 through 475.285 and 475.991 through 475.995.
- (b) Frequenting a place where controlled substances are used is a Class A misdemeanor.
- (c) Notwithstanding subsection (b) of this section, if the conviction is for knowingly maintaining, frequenting or remaining at a place where one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae is found at the time of an arrest under this section, frequenting a place where controlled substances are used is a violation punishable by a fine of not more than one hundred dollars.
- (d) As used in this section, "frequents" means repeatedly or habitually visits, goes to or resorts to.

(Ord. 84-65 §2)

§ 7.34.030. Prohibited Acts Generally—Penalties.

- (a) Except as authorized by ORS 475.005 through 475.285 and 475.991 through 475.995, it is unlawful for any person to manufacture or deliver a controlled substance. Any person who violates this subsection with respect to:
 - (1) A controlled substance in Schedule IV, is guilty of a Class B misdemeanor;
 - (2) A controlled substance in Schedule V, is guilty of a Class C misdemeanor.
- (b) Notwithstanding the placement of marijuana in a schedule of controlled substances under ORS 475.005 through 475.285:
 - (1) Any person who delivers, for no consideration, less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae is guilty of a Class A misdemeanor, except that any person who delivers, for no consideration, less than five grams of the dried leaves, stems and flowers of the plant Cannabis family Moraceae is guilty of a violation, punishable by a fine of not more than one hundred dollars.
 - (c) It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by ORS 475.005 through 475.285 and 475.991 through 475.995. Any person who violates this subsection with respect to:

- (1) A controlled substance in Schedule III, is guilty of a Class A misdemeanor;
- (2) A controlled substance in Schedule IV, is guilty of a Class C misdemeanor;
- (3) A controlled substance in Schedule V, is guilty of a violation.
- (4) Notwithstanding the placement of marijuana in a schedule of controlled substances under ORS 475.005 through 475.285, any person who knowingly or intentionally is in unlawful possession of less than one avoirdupois ounce of the dried leaves, stems and flowers of the plant Cannabis family Moraceae is guilty of a violation, punishable by a fine of not more than one hundred dollars.

(Ord. 84-65 §2)

**CHAPTER 7.36
MINORS**

§ 7.36.010. Misrepresentation of Age.

- (a) A person commits the crime of "misrepresentation of age by a minor" if:
 - (1) Being less than a certain, specified age, he or she knowingly represents him or herself to be of any age other than his or her true age with the intent of securing a right, benefit or privilege which by law is denied to persons under that certain, specified age; or
 - (2) Being unmarried, he or she knowingly represents that he or she is married with the intent of securing a right, benefit or privilege which by law is denied to unmarried persons.
- (b) Misrepresentation of age by a minor is a Class C misdemeanor.
(Ord. 84-65 §2)

§ 7.36.020. Sale or Gift of Liquor Prohibited—Exception.

- (a) No person shall sell, give or otherwise make available any alcoholic liquor to any person who is visibly intoxicated.
- (b) No one other than the person's parent or guardian shall sell, give or otherwise make available any alcoholic liquor to a person under the age of twenty-one years. A person violates this subsection who sells, gives or otherwise makes available alcoholic liquor to a person with the knowledge that the person to whom the liquor is made available will violate this subsection.
- (c) A person who violates this section commits a Class A misdemeanor. Upon violation of subsection (b) of this section, the Court shall impose at least a mandatory minimum sentence as follows:
 - (1) Upon a first conviction, a fine of three hundred fifty dollars.
 - (2) Upon a second conviction, a fine of one thousand dollars.
 - (3) Upon a third or subsequent conviction, a fine of one thousand dollars and not less than thirty days of imprisonment.
- (d) The Court shall not waive or suspend imposition of the minimum mandatory sentence required by subsection (c) of this section. In addition to the mandatory sentence the Court may require the violator to make restitution for any damages to property where the alcoholic liquor was illegally consumed or may require participation in volunteer service to a community service agency.
- (e) The penalty provisions of subsection (c) of this section shall not apply to persons licensed or appointed under the provisions of ORS Chapters 471 and 472.
- (f) Nothing in this section prohibits any licensee under this chapter from allowing a person who is visibly intoxicated from remaining on the licensed premises so long as the person is not sold or served any alcoholic liquor.

(Ord. 84-65 §2)

§ 7.36.030. Purchase or Possession of Liquor by Person Under Twenty-One Years of Age.

- (a) No person under the age of twenty-one years shall attempt to purchase, purchase or acquire alcoholic liquor. Except when such minor is in a private residence accompanied by the parent or guardian of the minor and with such parent's or guardian's consent, no person under the age of twenty-one years shall have personal possession of alcoholic liquor.
- (b) For the purposes of this section, personal possession of alcoholic liquor includes the acceptance or consumption of a bottle of such liquor, or any portion thereof or a drink of such liquor. However, this section does not prohibit the acceptance or consumption by any person of sacramental wine as part of a religious rite or service.
- (c) Except as authorized by rule or as necessitated in an emergency, no person under the age of twenty-one years shall enter or attempt to enter any portion of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors.
- (d) Any person who violates subsection (a) or (c) of this section commits a violation punishable by a fine of not more than two hundred fifty dollars.

(Ord. 84-65 §2)

§ 7.36.040. Unattended Minor in a Vehicle.

- (a) It shall be unlawful for any person having the care and custody of a minor under six years of age to leave such minor unattended in a locked vehicle, or to leave such minor unattended in an unlocked vehicle for more than fifteen minutes. A minor is unattended within the meaning of this section if the oldest person with the minor is under the age of ten years.
- (b) Leaving an unattended minor in a vehicle shall be a Class B misdemeanor.

(Ord. 84-65 §2)

§ 7.36.050. Harboring Runaway Child.

- (a) It shall be unlawful for any person knowingly to harbor a runaway child. As used in this section:
 - "To harbor" means to provide lodging, whether or not for compensation, without first notifying the bureau of police; and
 - "Knowingly" means with actual knowledge or under circumstances that would lead a person of common intelligence to believe that the child was a runaway; and
 - "Runaway child" means an unmarried child under eighteen years of age who, without consent of the parent or other person having legal custody of that child, leaves and stays away from the home or other dwelling place provided for the child by that person.
- (b) Harboring a runaway child shall be a Class B misdemeanor.

(Ord. 84-65 §2)

§ 7.36.060. Providing Premises for the Consumption of Alcohol by Minors Prohibited.

No person who owns or is in control of premises shall knowingly allow a minor to consume

alcoholic liquor on the premises except as provided in TMC 7.36.030.

Providing premises for the consumption of alcohol by minors shall be a Class A misdemeanor.
(Ord. 94-04)

CHAPTER 7.38 TRUANCY

§ 7.38.010. Regular School Hours Defined.

For purposes of this section, "regular school hours" are the hours of the full-time school that the minor would attend in the school district where the minor resides, on any day that school is in session, or, if the school in the school district of residence is unknown, "regular school hours" are the school hours of the Tigard-Tualatin School District on any day that school is in session.
(Ord. 06-14)

§ 7.38.020. School-Aged Children to Be in School During School Hours.

A minor who is at least seven years of age and under 18 years of age and who has not completed the 12th grade may not be upon any public property or public right of way during regular school hours except while attending school as required by ORS 339.010 to 339.065, unless the minor is:

- (a) Absent from the school with the school's permission, but not including students who have been suspended or expelled; or
 - (b) Engaged in a lawful pursuit or activity that requires the minor's presence somewhere other than school during regular school hours, and which is authorized by the parent, guardian, or other person having legal care and custody of the minor; or
 - (c) Lawfully emancipated pursuant to ORS 419B.550 to 419B.558; or
 - (d) Exempt from compulsory school attendance pursuant to ORS 339.030.
- (Ord. 06-14)

§ 7.38.030. Authority to Detain and Inquire.

If a police officer has reasonable suspicion to believe that a minor is in violation of this Section, the officer is authorized to detain the minor and make reasonable inquiry regarding a potential violation of Subsection 7.38.020 of this Section.

(Ord. 06-14)

§ 7.38.040. Child to Be Returned to School or Taken into Protective Custody.

If a police officer has probable cause to believe that a minor is in violation of this Section, the officer is authorized to return the minor to the custody of the school. If the minor refuses to go to the school, the officer is authorized to take the minor into protective custody.
(Ord. 06-14)

§ 7.38.050. Additional Authority.

This chapter is not intended to in any way limit the authority of a police officer to take any other action authorized by law, including taking a minor into protective custody for reasons other than those stated in Section 7.38.040.

(Ord. 06-14)

CHAPTER 7.42 CHRONIC NUISANCE PROPERTY

§ 7.42.010. Short Title.

The ordinance codified in this chapter shall be known as the "Chronic Nuisance Ordinance," and may also be referred to herein as "this chapter."
(Ord. 94-11)

§ 7.42.015. Incorporation of State Statute.

Any reference to state statute incorporated into this chapter refers to the statute in effect on the effective date of the ordinance codified in this chapter.
(Ord. 94-11)

§ 7.42.020. Definitions.

As used in this chapter, or any code provision referenced by this chapter, the following definitions apply.

"Chief of police" means the chief of the Tigard Police Department or designee.

"Chronic nuisance abatement plan" (CNAP) means a plan required to be submitted by a responsible party in response to a notice authorized under Section 7.42.040 of this code that includes actions to abate, correct, or eliminate the occurrence of chronic nuisance activities on or around the property. A CNAP may include, but is not limited to, the following: actions to remedy building code, fire code, and nuisance code violations and eviction of problem tenants responsible for causing chronic nuisance activities. A CNAP must include an implementation timeline.

"City manager" means the city manager or designee.

"Chronic nuisance property" means property upon which three or more distinct occurrences of any of the following acts or behaviors take place during any 120-day period:

1. Property for which a court has issued a search warrant based on probable cause that possession, manufacture or delivery of a controlled substance or related offenses as defined in ORS 167.203, ORS 475.005 through 475.285 and/or ORS 475.940 through 475.995 has occurred within the previous 120 days, and the chief of police has determined that the search warrant was based on evidence of continuous or repeated chronic nuisance activities at the property;
2. "Harassment," as described in ORS 166.065;
3. "Fire or discharge of a gun or weapon," as described in Section 7.32.120 of this code;
4. "Disorderly conduct," as described in ORS 166.025;
5. "Public indecency," as described in Section 7.32.110 of this code;
6. "Unlawful use or possession of weapons or firearms," as described in ORS 166.210 through 166.275;
7. "Violation of the Uniform Controlled Substances Act," as described in ORS Chapter 475;

8. "Assault," as described in ORS 163.160, 163.165, 163.175, or 163.185;
9. "Menacing," as described in ORS 163.190;
10. "Prostitution" or related offenses as defined in ORS 167.007 through 167.017;
11. "Theft" as defined in ORS 164.015 through 164.140;
12. "Arson" or related offenses as defined in ORS 164.315 through 164.335;
13. "Sexual abuse, contributing to the sexual delinquency of a minor, or sexual misconduct" as defined in ORS 163.415 through 163.445;
14. "Alcoholic liquor" violations as defined in ORS 471.105 through 471.482;
15. "Offensive littering" as defined in ORS 164.805;
16. "Illegal gambling" as defined in ORS 167.117, and/or ORS 167.122 through 167.127;
17. "Animal abuse or neglect" as defined in ORS 167.315 through 167.330, "animal abandonment" as defined in ORS 167.340, "animal fighting" as defined in ORS 167.355, or "dog fighting" as defined in ORS 167.365.

Any of the above activities will be deemed to have occurred on the property for purposes of this definition if engaged in within 300 feet of the property by any person associated with the property.

"Owner" means the person or persons having legal or equitable title to the property.

"Person associated with the property" means any person who, on the occasion of a chronic nuisance activity, has entered, patronized, or visited; or attempted to enter, patronize, or visit; or waited to enter, patronize, or visit a property or person present on a property, including, without limitation, any officer, director, customer, agent, invitee, employee, or any independent contractor of a property, responsible party, or owner of a property.

"Property" means any real property including land and that which is affixed, incidental or appurtenant to land, including, but not limited to, any premises, room, apartment, house, building or structure or any separate part or portion thereof, whether permanent or not.

"Responsible party" includes each of the following:

1. The owner of the property, or the owner's manager or agent or other person in control of the property on behalf of the owner; or
 2. The person occupying the property, including bailee, lessee, tenant or other person having possession.
- (Ord. 94-11 ; Ord. 03-08 ; Ord. 15-17 §1; Ord. 18-10 §1)

§ 7.42.030. Chronic Nuisance Property.

- A. The acts or omissions described herein are hereby declared to be public nuisances of the sort that commonly recur in relation to a given property, thereby requiring the remedies set out in this chapter.
- B. Any property within the City of Tigard which becomes chronic nuisance property is in violation of this chapter and subject to its remedies.

- C. Any person who is a responsible party for property which becomes a chronic nuisance property shall be in violation of this chapter and subject to its remedies.
(Ord. 94-11)

§ 7.42.040. Notification Procedures.

- A. Except as otherwise noted herein, notwithstanding Section 1.16.060.B of this code, this section sets out procedures to be used in processing an infraction of this chapter.
- B. After two occurrences of any of the acts or behaviors listed in Section 7.42.020.D of this chapter within a 120-day period, the chief of police shall provide notification via certified mail to all responsible parties for the property containing:
 1. The times and places of the alleged occurrences and a concise description of the nuisance activities leading to the finding;
 2. The street address or a legal description sufficient for identification of the property; and
 3. A demand that the responsible party respond to the chief of police within 10 calendar days and propose a course of action to abate the chronic nuisance activities giving rise to the violation.
- C. Responsible parties for a given property shall be presumed from the following:
 1. The owner and the owner's agent, as shown on the tax rolls of Washington County;
 2. The resident of the property, as shown on the records of the water department.

(Ord. 94-11 ; Ord. 12-01 §2; Ord. 15-17 §1; Ord. 18-10 §1)

§ 7.42.042. Chronic Nuisance Abatement Plan.

- A. A responsible party must respond to the chief of police within 10 calendar days of the date the notice described in Section 7.42.040 of this code was issued and submit a chronic nuisance abatement plan to abate the chronic nuisance activities giving rise to the violation.
- B. The chief of police will review the CNAP submitted by the responsible party and approve or deny it within 10 days of submittal. The chief of police will approve the plan if he or she determines that the actions proposed are likely to substantially decrease the incidence of chronic nuisance activities around the property. In the event the CNAP is denied, the reasons for the denial will be included and the responsible party will have 10 days to resubmit a plan for approval.
- C. After the chief of police approves the CNAP, the responsible party will implement it in accordance with the timeline and terms set forth in the plan.

(Ord. 18-10 §1)

§ 7.42.045. Enforcement.

- A. The following actions are class 1 infractions and subject to a penalty or administrative fee pursuant to Chapter 1.16 of this code:
 1. Failing to respond as required by the notice described in Section 7.42.040 of this code;

2. Failing to submit a CNAP, that is approved by the chief of police, in his or her sole discretion, within 30 days after being determined a chronic nuisance property;
 3. Failing to implement the CNAP as set forth in accordance with the timeline set forth in the approved plan; or
 4. A report of an additional chronic nuisance activity occurring on the property after the notice is issued pursuant to Section 7.42.040 of this code.
- B. In addition to any other remedies provided herein, the chief of police may enforce a violation under this code as set forth in Chapter 1.16 of this code or in any other manner under law.
- C. A uniform infraction summons and complaint, containing the following parts, may be served upon any responsible party for chronic nuisance property, citing that party into municipal court.
1. The summons;
 2. The complaint; and
 3. A description of the alleged occurrences leading to violation of this chapter, stating the times and places of those occurrences.
- D. The uniform infraction summons shall contain the following information:
1. The file number;
 2. The name and address of each respondent;
 3. The infraction with which the respondent is charged;
 4. The date, time, and place at which the hearing on the infraction is to take place;
 5. An explanation of the respondent's obligation to appear at this hearing, and that failure to appear may result in a default judgment being taken against the respondent;
 6. An explanation of the respondent's right to a hearing, right to representation by counsel at personal expense, right to cross examine adverse witnesses, and right to compulsory process for the production of witnesses;
 7. Notice that the cost of the hearing, including witness fees, may be charged to the respondent if the final order of the court finds that the property is a chronic nuisance property.
- E. The uniform infraction complaint shall contain the following information:
1. The date, time, and place the alleged infractions occurred;
 2. The date on which the complaint was issued;
 3. A notice to the respondent that a civil complaint has been filed with the municipal court.
- F. Service of the summons and complaint shall be accomplished as described in Section 1.16.230 of this code. In addition to the affidavit described in subsection G of that section,

a return receipt of certified mailing which indicates delivery of the summons and complaint to the respondent's last known address, or a certified mailing which has been returned by the post office "unclaimed," shall also create a rebuttable presumption that the respondent had the required notice.

- G. The hearing for determination as to whether an infraction has been committed shall take place in the manner described in Sections 1.16.250 through 1.16.300 and 1.16.320 of this code.
- H. Subject to the limitations of Section 1.16.230.G of this code, a default judgment may be entered against a respondent who fails to appear at the scheduled hearing. Upon such judgment, the court may prescribe the remedies described in this chapter.

(Ord. 94-11 ; Ord. 12-01 §2; Ord. 18-10 §1)

§ 7.42.050. Remedies.

- A. Upon finding that the respondent has violated this chapter, the court may:
 - 1. Require that the chronic nuisance property be closed and secured against all use and occupancy for a period of not less than 30, but not more than 180, days; and/or
 - 2. If the court determines a property to be a chronic nuisance property, the court may impose a civil penalty of up to \$1,000 per day for each day a nuisance activity occurred on the property after three nuisance activities have occurred on the property within a 120-day time period.
 - 3. Employ any other remedy deemed by the court to be appropriate to abate the nuisance.
- B. In lieu of closure of the property pursuant to subsection A of this section, the respondent may file a bond acceptable to the court. Such bond shall be in an amount set by the court not to exceed the value of the property closed as determined by the court, and shall be conditioned upon the non-recurrence of any of the acts or behaviors listed at Section 7.42.020.D of this chapter for a period of one year after the judgment. Acceptance of the bond described herein is further subject to the court's satisfaction of the respondent's good faith commitment to abatement of the nuisance.
- C. A property will no longer be determined to be a chronic nuisance property after the passage of one year from the date of the last reported chronic nuisance activity, the date the chronic nuisance abatement plan was approved by the Chief of Police, or date of court order, whichever is later.

(Ord. 94-11 ; Ord. 15-17 §1; Ord. 18-10 §1)

§ 7.42.060. Defenses—Mitigation of Civil Penalty.

- A. It is a defense to an action brought pursuant to this chapter that the responsible party at the time in question could not, in the exercise of reasonable care or diligence, determine that the property had become chronic nuisance property, or could not, in spite of the exercise of reasonable care and diligence, control the conduct leading to the finding that the property is chronic nuisance property. However, it is no defense under this subsection that the party was not at the property at the time of the incidents leading to the chronic nuisance situation.

B. In implementing the remedies described in this chapter, the court may consider any of the following factors, as they may be appropriate, and shall cite those found applicable:

1. The actions taken by the owner(s) to mitigate or correct the problem at the property;
2. The financial condition of the owner;
3. Whether the problem at the property was repeated or continuous;
4. The magnitude or gravity of the problem;
5. The cooperativeness of the owner(s) with the city in remedying the problem;
6. The cost to the city of investigating and correcting or attempting to correct the condition;
7. Any other factor deemed by the court to be relevant.

(Ord. 94-11)

§ 7.42.070. Closure During Pendency of Action—Emergency Closures.

In addition to any other remedy available to the city under this chapter, in the event that the Chief of Police finds that a property constitutes an immediate threat to the public safety and welfare, the city may apply to any court of competent jurisdiction for such interim relief as is deemed by the City Manager to be appropriate, including closure and securing of the property. In such event, the notification procedures set forth in Section 7.42.040 need not be complied with.

(Ord. 94-11 ; Ord. 03-08 ; Ord. 18-10 §1)

§ 7.42.080. Enforcement of Closure Order—Costs—Civil Penalty.

- A. The court may authorize the city to physically secure the property against use or occupancy in the event that the owner(s) fail to do so within the time specified by the court.
- B. The court may assess on the property owner the following costs incurred by the city in effecting a closure of property:
 1. Costs incurred in actually physically securing the property against use;
 2. Administrative costs and attorneys fees in bringing the action for violation of this chapter.
- C. The City Manager may, within 14 days of written decision by the court, submit a signed and detailed statement of costs to the court for its review. If no objection to the statement is made within the period prescribed by Oregon Rule of Civil Procedure 68, a copy of the statement, including a legal description of the property, shall be forwarded to the office of the City Finance Director who thereafter shall enter the same in the city's lien docket in the same manner prescribed by Section 1.16.710 of this code.
- D. Persons assessed the costs of closure and/or civil penalty pursuant to this chapter shall be jointly and severally liable for the payment thereof to the city.

(Ord. 94-11 ; Ord. 03-08 ; Ord. 12-01 §2)

§ 7.42.085. Tenant Relocation Costs.

A "tenant" (as defined by ORS 90.100(16)) of chronic nuisance property may be entitled to reasonable relocation costs, if without actual notice the tenant moved into the property after the property owner or his/her agent received notice of an action brought pursuant to this chapter. Any allowable costs will be determined by the city, and shall be a liability upon the owner of the chronic nuisance property.

(Ord. 94-11)

§ 7.42.090. Attorney Fees.

In any action brought pursuant to this chapter, the court may, in its discretion, award reasonable attorneys fees to the prevailing party.

(Ord. 94-11)

§ 7.42.100. Severability.

If any provision of this chapter, or its application to any person or circumstance, is held to be invalid for any reason, the remainder of the chapter, or the application of its provisions to other persons or circumstances, shall not in any way be affected.

(Ord. 94-11)

§ 7.42.110. Nonexclusive Remedy.

The remedy described in this chapter shall not be the exclusive remedy of the city for the acts and behaviors described in Section 7.42.020.D.

(Ord. 94-11)

CHAPTER 7.44 CURFEW HOURS FOR MINORS

§ 7.44.010. Prohibition of Unaccompanied or Unemancipated Minors from Being in Public Places During Certain Hours.

- (a) No minor shall be in or upon any street, highway, park, alley or other public place between the hours specified in this chapter, unless such minor is:
- (1) Accompanied by a parent, guardian or other person twenty-one years of age or older and authorized by the parent or by law to have care and custody of the minor;
 - (2) Then engaged in a lawful pursuit or activity which requires such a minor to be present in such public places during the hours specified in this chapter; or
 - (3) Emancipated pursuant to ORS 109.550 through 109.565.

(Ord. 84-65 §2; Ord. 94-17)

§ 7.44.020. Prohibition of Parents, Guardians or Custodians from Allowing Minors to Be in Public Places During Curfew Hours.

No parent, guardian or person having the care and custody of a minor under the age of eighteen years shall allow such minor to be in or upon any street, highway, park, alley or other public place between the hours specified in Section 7.44.025, except as otherwise provided in that section.

(Ord. 84-65 §2; Ord. 94-17)

§ 7.44.025. Curfew Hours for Minors.

- (a) For minors under the age of 14 years, the curfew is between 9:15 p.m. and 6:00 a.m. of the following morning, except on any day immediately preceding a day for which no public school is scheduled in the City, the curfew is between 10:15 p.m. and 6:00 a.m. of the following morning.
- (b) For minors 14 years or age or older, the curfew is between 10:15 p.m. and 6:00 a.m. of the following morning, except on any day immediately preceding a day for which no public school is scheduled in the City, the curfew is between 12 midnight and 6:00 a.m. of the following morning.

(Ord. 94-17)

§ 7.44.030. Custody of Minors Violating Curfew.

Any minor who violates a provision of this chapter may be taken into custody as provided in ORS 419C.080, 419C.088 and may be subjected to further proceedings as provided in ORS Chapter 419C.

(Ord. 84-65 §2; Ord. 94-17)

§ 7.44.040. Violation by Parent, Guardian or Custodian.

Violation of Section 7.44.020 shall be a Class C misdemeanor.

(Ord. 84-65 §2)

CHAPTER 7.48

USE OF CITY PROPERTY AND PUBLIC RIGHT-OF-WAY FOR SPECIAL EVENTS

§ 7.48.010. Permit Required; Scope.

- A. No person may occupy public right-of-way or city-owned property for a special event without a current, valid city permit for the event. As used in this chapter, a special event is an assembly or gathering of persons for entertainment, recreation, the display or sale of goods or services, or other common purpose to be undertaken by a person other than the city that may involve use or closure of public right-of-way or city-owned property, control over vehicle and pedestrian access to the special event location, use of sound amplifying devices, use of public personnel or resources for emergency response, or any combination of those elements.
- B. A special event permit is not required for events consisting solely of rentals of park structures or sport fields.
- C. The issuance of a special event permit confers the right to control and regulate activities within the special event venue consistent with the terms of the special event permit only.

(Ord. 19-11 §1)

§ 7.48.020. Time, Place, and Manner Limitations on Special Events.

The city may restrict the date and duration of event proposals that are shown to conflict with other permitted events.

(Ord. 19-11 §1)

§ 7.48.030. Permit Application.

A person who seeks to use public right-of-way or city property for a special event must apply for a permit on the form provided by the city and include any applicable fees. The city-provided form will require, at a minimum, the following:

- A. The proposed date, time, place, and hours for the special event;
- B. The area of public right-of-way or city property to be occupied for the applicant's use;
- C. The location of any streets or intersections where the applicant proposes to restrict access by pedestrians or vehicles and a traffic control plan. The traffic control plan must address likely traffic impacts resulting from the proposed special event and demonstrate compliance with the requirements of the Americans with Disabilities Act;
- D. Provisions for emergency response services for the event;
- E. The proposed type and location of facilities for on-site food preparation and consumption and for mobile food sales, if any;
- F. Provisions for waste disposal and for toilet facilities;
- G. Whether there will be a fee, charge, or cost imposed for participation in the special event;
- H. The names, addresses, and telephone numbers of the persons applying as organizers and the primary contact for the special event on the day of the event.

(Ord. 19-11 §1)

§ 7.48.040. Standards for Approval.

The city may approve the issuance of a special events permit where compliance with the following standards is demonstrated or found to not be applicable:

- A. The permit application provides adequate information about the event as required by TMC 7.48.030.
- B. The proposed special event will ensure access of emergency response services to the event.
- C. The proposed special event use will not create a significant adverse impact to the public health, safety, and welfare of the community.
- D. The location is available for use and the event will not conflict with another permitted event.

(Ord. 19-11 §1)

§ 7.48.050. Conditions.

The city may attach any conditions to the issuance of the permit that are reasonably related to ensuring compliance with this chapter, other applicable city codes and ordinances, and protection of the public interest.

- A. When the city determines that the proposed special event may subject the city to potential liability, the city may require the applicant to obtain appropriate liability insurance and file a certificate of insurance with the city from an insurance company acceptable to the city. The policy will name the city, its officers, agents, and employees as additional insureds. The amount of the insurance policy will be determined by the city. The policy must also contain a provision that the city will be notified at least 10 days prior to any cancellation of such insurance. The permittee must maintain the insurance for the term of the permit issued. Failure to maintain the insurance results in automatic revocation of the permit.
- B. If the applicant requests police or public works services for the special event, the permit must include an agreement to reimburse for such services or to provide up-front payment. The agreement will be on a form approved by the city.
- C. The city may require a refundable security deposit to guarantee payment of the cost to the city to clean and restore the site if applicant fails to do so.
- D. For street closures, the city may require the event organizer to notify residents and businesses in the surrounding area as to where and when the event is to occur. When notice is required by the city, the event organizer must inform residents and businesses in writing at least 14 days prior to the date of event and provide the city with proof that notice has been issued.
- E. If alcohol will be sold, consumed, or possessed, the applicant must show compliance with all applicable OLCC regulations and obtain liquor liability insurance in an amount determined by the city.
- F. As required by the city, applicant will agree to indemnify, defend, and hold harmless the city, its elected officials, and all officers, employees or agents against any and all damages,

claims, demands, actions, causes of action, costs and expenses of whatsoever nature which they or any of them may sustain by reasons of the acts, conduct or operation of the permittee, the permittee's agents, or employees in connection with the special event or approved permit.

(Ord. 19-11 §1)

§ 7.48.060. Appeal of the Permit Decision.

- A. An applicant may appeal a staff decision denying a special event permit to the City Council. The applicant may initiate the appeal process by filing a notice of appeal within five business days of the date of the challenged decision.
- B. The notice of appeal must include at least the following:
 1. The name, contact information, and signature of the applicant.
 2. A statement explaining why staff erred in concluding the standards in TMC 7.48.050 have not been met and identifying any evidence relied upon to support the claim of error.
 3. An appeal fee established by resolution of the City Council.
- C. Within seven business days after a notice of appeal is received, the staff will determine whether it contains the information necessary to process. If not, the appeal may be dismissed without review by the City Council.
- D. A hearing on an appeal of a special events permit will be scheduled within 30 days after the notice is filed or, if after 30 days, at the next scheduled City Council meeting. The appellant will be provided notice of the appeal hearing date at least 14 days before the scheduled hearing. No additional written or oral evidence may be presented at the hearing. The City Council will make its decision based on the record, including the notice of appeal filed by the applicant. At the conclusion of the hearing, the council will affirm or reverse the decision under appeal, with or without conditions or changes.

(Ord. 19-11 §1)

§ 7.48.070. Enforcement.

Violation of the terms or conditions of a special event permit or operation of a special event without a valid permit is punishable by a fine of not more than \$500.

(Ord. 19-11 §1)

**CHAPTER 7.50
AUTHORITY TO RESTRICT ACCESS TO CERTAIN AREAS**

§ 7.50.010. Threat to Health or Safety.

Whenever a threat to the public health or safety is created by any fire, explosion, accident, cave-in, or similar emergency, catastrophe or disaster, or by disturbance, riot, presence of an armed person, hostage being held, or other disturbance, an officer of the police department may restrict or deny access to persons to the area where such threat exists, for the duration of such threat, when the presence of such persons in such area would constitute a danger to themselves, or when such officer reasonably believes that the presence of such persons would substantially interfere with the performance of the police or other emergency services.

(Ord. 86-07 §1)

§ 7.50.020. Criminal Investigation.

Whenever it appears to be reasonably necessary to investigate, or to preserve or collect evidence of criminal acts, an officer of the police department may restrict or deny access to any room, building or enclosure, or any open area, by cordoning off such area by the use of persons, vehicles, ropes, markers, or any other means.

(Ord. 86-07 §1)

§ 7.50.030. Restrict or Deny Access.

As used in this chapter, "restrict or deny access" means that the officers of the police department have the authority to regulate or prohibit the presence or movement of persons or vehicles to, from or within any area, to evacuate persons, and to move or remove any property therefrom, until the reason for such restriction or denial of access no longer exists.

(Ord. 86-07 §1)

§ 7.50.040. Unlawful to Enter or to Refuse to Leave.

It is unlawful for any person to enter or to refuse to leave any area closed or restricted in access pursuant to Section 7.50.010 or Section 7.50.020 above, unless such person has specific statutory authority or the permission of the on-scene ranking officer of the police department to be within such area.

(Ord. 86-07 §1)

§ 7.50.050. News Media.

In accordance with the authority granted by this chapter, and in consideration of the law enforcement and emergency services needs involved, provision shall be made for reasonable access to such areas by members of the media for the purpose of news gathering and reporting.

(Ord. 86-07 §1)

§ 7.50.060. Violation—Penalty.

Violation of this chapter shall be punishable in accordance with Section 7.28.040 of the Tigard Municipal Code.

(Ord. 86-07 §1)

CHAPTER 7.52 PARK PROPERTY USE

§ 7.52.010. Policy of City Council.

The city council, except as otherwise expressly provided, declares its intention to exercise general supervision, management and control of all public parks, public parkways, public squares, trails, greenways, playgrounds, and other recreation areas, hereinafter collectively referred to as "public parks" whether publicly or privately owned, dedicated, leased or otherwise set aside for public use and not under the supervision or control of any other public agency, and the council declares its intention to prescribe rules and regulations as herein set forth or from time to time as necessary with respect to such public areas.

All public parks as herein designated for general public use shall be kept and maintained for the use and benefit of the public, subject to such reasonable and necessary rules and regulations as herein prescribed or as may be from time to time adopted to protect and preserve the enjoyment, convenience and safety of the general public in the use thereof.

(Ord. 71-12 §1; Ord. 16-03 §1; Ord. 19-20 §1)

§ 7.52.030. Use Regulations.

The purpose of this chapter is to provide for equal access to all public parks and to ensure that persons use public lands and public facilities for their intended purpose. Conduct on city property is also governed by TMC 7.58.

(Ord. 71-12 §3; Ord. 19-20 §1)

§ 7.52.050. Closures.

No person may ride, drive or walk on such parts or portions of the parks or pavements as may be closed to public travel, or interfere with barriers erected against the public.

(Ord. 71-12 §3; Ord. 19-20 §1)

§ 7.52.080. Concessions and Sales.

No person may sell or offer for sale any food, beverage, or any other retail item except in conjunction with an approved special event permit, facility rental, or as otherwise allowed by the public works director.

(Ord. 71-12 §3; Ord. 92-33 §1; Ord. 03-08 ; Ord. 19-20 §1)

§ 7.52.090. Display or Posting Materials.

No person may place a display or post written material within a park unless such display is authorized by a sign permit or associated with an approved special event pursuant to TMC 7.48.

(Ord. 71-12 §3; Ord. 03-08 ; Ord. 19-20 §1)

§ 7.52.100. Alcoholic Beverages.

A. For purposes of this section:

"Alcoholic beverage" means any liquid containing any form of alcohol, including but not limited to malt and fermented beverages, whether licensed for sale in the state or not.

"Person's own use" means for use by the person as well as use by any person attending the same social event. As used in this definition, "person" means a person of legal age to possess or drink alcoholic beverages.

- B. Except as provided in this section, no person may take into or possess any alcoholic beverage in a city park other than for the person's own use. No intoxicated person may enter or remain in any city park. The sale of beer or wine in city parks is allowed only pursuant to a permit issued by the city, and any such sale must comply with all applicable state liquor laws and permitting requirements. No other alcoholic beverages may be sold in city parks. The limited use and sale of alcoholic beverages allowed by this subsection does not apply to the parks listed in subsection C of this section.
 - C. No person may sell, purchase, or consume any alcoholic beverage in any existing or future city park located within the city's urban renewal districts without a city permit. The sale and consumption of alcoholic beverages in existing or future parks in urban renewal districts may be allowed only pursuant to a permit issued by the city and any such sale or use must comply with all applicable state liquor laws and permitting requirements.
 - D. Failing to comply with any provision of this section is a violation. The civil penalty for violation of this section may not exceed \$600 for the first violation, and \$1,000 for subsequent violations within 12 months of a previous violation of this section.
 - E. All alcoholic beverages and alcoholic beverage containers brought into, possessed, or otherwise present in a park in violation of this section are contraband and may be disposed of or retained as evidence by the city.
- (Ord. 71-12 §3; Ord. 84-48 §1; Ord. 03-08 ; Ord. 06-08 ; Ord. 07-14 ; Ord. 17-06 ; Ord. 19-20 §1)

§ 7.52.110. Refuse and Trash Prohibitions.

No person may deposit, dump, place, or leave any garbage or refuse in a park except garbage or refuse resulting from use of the park and deposited in an appropriate refuse receptacle.

(Ord. 71-12 §3; Ord. 82-62 §1; Ord. 19-20 §1)

§ 7.52.120. Destruction of Property.

No person may damage or destroy any park tree, shrub, plant, structure, or appurtenance.

(Ord. 71-12 §3; Ord. 99-31 ; Ord. 19-20 §1)

§ 7.52.130. Gambling Prohibited.

No person may play any game of chance or carry on betting of any kind within the park boundaries, except as allowed by state law.

(Ord. 71-12 §3; Ord. 19-20 §1)

§ 7.52.140. Firearms or Fireworks Prohibited.

No person may use firearms, fireworks, or explosives of any kind in a park, including air guns, bb guns, or bows and arrows.

(Ord. 71-12 §3; Ord. 82-62 §2; Ord. 19-20 §1)

§ 7.52.150. Animal, Bird, and Fish Prohibitions.

No person may hunt, harm, frighten, kill, trap, or chase any bird, fish, or animal, except as authorized by the Public Works Director.

(Ord. 71-12 §3; Ord. 19-20 §1)

§ 7.52.170. Fishing and Bathing Restrictions.

No person may fish, wade, swim or bathe in any park except in the places designated for such purposes.

(Ord. 71-12 §3; Ord. 03-08 ; Ord. 19-20 §1)

§ 7.52.190. Animals.

Inside parks, domesticated animals must be on a leash at all times except in designated off-leash areas, as authorized under the Americans with Disabilities Act, or specifically authorized by the city.

(Ord. 71-12 §3; Ord. 19-20 §1)

§ 7.52.225. Smoking Prohibited.

- A. Smoking is prohibited in all parks. "Smoking" means inhaling, exhaling, or possessing any lighted or burning cigar, cigarette, pipe, weed, plant, or other substance grown, manufactured, or processed which is intended to be used for smoking in any form. "Smoking" also means inhaling, exhaling, or possessing an electronic cigarette or a similar device intended to emulate smoking.
- B. Failing to comply with this section is a violation. The civil penalty for violation of this section may not exceed \$100 for the first violation and \$500 for subsequent violations within 12 months of a previous violation of this section. Each violation of this section constitutes a separate offense.

(Ord. 16-03 §1; Ord. 19-20 §1)

§ 7.52.230. Fires.

- A. Fires are prohibited on all park property except in areas designed and set aside for such purposes. Fires on park property must be confined to city-provided barbecue stands or fireplaces.
- B. Portable propane cook stoves or gas grills may be used if confined to established picnic areas where fires are allowed. Portable charcoal grills are not allowed.
- C. No fires on park property may be left unattended and every fire must be extinguished by the user before leaving park property.
- D. Dropping, throwing, or otherwise scattering any burning material, including lighted matches, cigarettes or cigars, tobacco paper, or other flammable material within any park or on any highway, road, or street abutting and contiguous to any park is prohibited.
- E. The Park Manager may restrict or prohibit fires further than provided in this section when fire hazard conditions are high.

(Ord. 22-03 §1)

§ 7.52.270. Motor Vehicles.

The use of motorized vehicles on park property is restricted to roadways and parking lots designated for the purpose, unless otherwise authorized by the city.

(Ord. 71-12 §3; Ord. 03-08 ; Ord. 19-20 §1)

§ 7.52.300. Penalty for Violation.

Violations of this chapter are punishable by a fine of not more than \$500.

(Ord. 71-12 §4; Ord. 16-03 §1; Ord. 19-20 §1)

CHAPTER 7.56 INDECENT CONDUCT

§ 7.56.010. Sexual Touching for a Fee—Declarations.

The City Council of Tigard, Oregon, finds that sexual touching for a fee, as hereinafter defined, encourages personal depravity, derogates against public morality and constitutes a public nuisance and such behavior is inimical to the peace, health, safety, and welfare of the people of the City of Tigard.

In adopted the ordinance codified in this chapter, it is the intent and purpose to carry out the legislative policy of the City of Tigard to prohibit such behavior. The provisions of this chapter shall be liberally construed to accomplish that purpose.

(Ord. 72-62 §1)

§ 7.56.020. Sexual Touching for a Fee—Definitions.

For the purpose of this chapter, words in the present tense include the future, the singular number includes the plural and the plural number includes the singular. "Shall" is mandatory and not directory. The masculine gender includes the feminine and neuter and "this chapter" includes the text of this chapter and all amendments hereafter made thereto. As used in this chapter, unless the context requires otherwise, the following words and their derivations shall be utilized:

"Private parts" means the genital organs or the external genital procreative organs of a male or female human being.

"Sexual touching" means any touching of the private parts of one person by another person or causing one person to touch the sexual or other intimate parts of another for the purpose of arousing or gratifying the sexual desire of either party.

"Fee" means any recompense, reward, compensation or item of monetary value given, promised or paid to another person in consideration of an act or acts of sexual touching performed or to be performed.

(Ord. 72-62 §2)

§ 7.56.030. Sexual Touching for a Fee—Prohibitions.

- (a) No person shall offer to pay, pay, or receive a fee as herein defined, directly or indirectly in consideration of an act or acts of sexual touching performed or to be performed with respect to another person.
- (b) No person who manages or control any place of business or commercial activity shall cause or permit any agent, or other person under his or her control or supervision to in conduct prohibited by subsection (a) of this section.
- (c) No person shall solicit, employ or engage in another or confederate with another to violate subsection (a) of this section.

(Ord. 72-62 §3)

§ 7.56.040. Sexual Touching for a Fee—Penalties.

- (a) Violation of any subsection of Section 7.56.030 is punishable, upon conviction, by a fine not to exceed five hundred dollars or by imprisonment in the county jail for a period not to

exceed six months, or by both such fine and imprisonment.

- (b) Each violation of any subsection of Section 7.56.030 constitutes a separate offense and each day that any person violates any subsection of Section 7.56.030 constitutes a separate offense.

(Ord. 72-62 §4)

**CHAPTER 7.58
RULES OF CONDUCT ON CITY PROPERTY**

§ 7.58.010. General Purposes of Chapter.

The general purposes of the provisions set forth in Chapter 7.58 are to prevent and prohibit conduct that threatens harm to individual or public interests, or interferes with serving the public, to preserve the enjoyment, safety, comfort and convenience of the public, and to enhance the orderly administration and operation of city business on city property, by prohibiting conduct that unreasonably interferes with the administration and lawful use of city property and providing fair warning of the nature of the conduct declared to constitute an offense.

(Ord. 19-19 §1)

§ 7.58.020. Definitions.

"City property" means any property owned or managed by the city, including, but not limited to, parks, greenways, buildings, parking lots or other land or physical structures.

"Police officer" means a member of the Oregon State Police, municipal police officer, sheriff, or officer of the Tigard Police Department, including sworn members of the Tigard police reserves.

(Ord. 19-19 §1)

§ 7.58.040. Prohibited Acts Generally.

- A. Any act or thing prohibited or the failing to do any act or thing commanded to be done in this chapter, on city property, within the corporate limits of the City of Tigard and within such other areas as may be specified in this chapter is hereby declared to be an offense against the public peace, safety, health, morals, and general welfare of the people of the City of Tigard.
- B. Any act or omission prohibited by this chapter includes causing, allowing, permitting, aiding, abetting, suffering, or concealing any such act or omission.

(Ord. 19-19 §1)

§ 7.58.070. City Manager to Make Rules and Regulations.

The city manager is authorized to make such rules and regulations not in conflict with the ordinances of the city as the city manager finds necessary for the better control and management of city property. These regulations will be posted at the applicable property and are in addition to all other applicable laws and ordinances. A person may appeal to the city council to amend or repeal a rule by filing a petition with the city manager that states the basis for the objection. Until and unless amended or repealed by the council, any rule or regulation remains in full force and effect as if it were an ordinance. The city manager may delegate this authority.

(Ord. 19-19 §1)

§ 7.58.080. Rules of Conduct on City Property.

It is a violation of this chapter to:

- A. Violate any federal, or state law or City of Tigard ordinance or rule.
- B. Enter or remain on any city property for purposes other than to conduct legitimate business

with the city or to use that property lawfully under the rules provided by the city.

- C. Enter or attempt to enter any secure portion of any city government building that is not open to members of the general public, without authorization from the city manager or a designee.
- D. Deface, damage, or destroy city property.
- E. Engage in conduct that degrades the appearance of city property, including but not limited to, depositing trash, spitting, urinating, or defecating upon the property.
- F. Engage in conduct that disrupts or interferes with the normal operations of the city government, or engage in conduct that disturbs customers or employees of the city government, including but not limited to, conduct that creates unreasonable noise, or conduct that consists of loud or boisterous physical behavior.
- G. Engage in conduct that subjects or may subject customers or employees of the city government to annoyance or alarm, including, but not limited to, conduct that involves the use of abusive or threatening language or gestures.
- H. Refuse to obey any reasonable direction of a city government employee.

(Ord. 19-19 §1)

§ 7.58.090. Enforcement and Exclusion from City Property.

- A. Persons who violate any of the rules of conduct on any city property may be excluded from city property for a period of 30 to 180 days.
- B. Nothing in the City of Tigard Municipal Code may be construed to authorize the exclusion of any person lawfully exercising free speech rights or any other rights protected by the state or federal constitutions. However, a person engaged in such protected activity who commits acts that are not protected may be subject to exclusion.
- C. No person may enter or remain in any city property for which a notice of exclusion has been issued during the time stated in the exclusion. A person who knowingly violates an order of exclusion from city property commits the crime of criminal trespass in the second degree (ORS 164.245).
- D. Except for an exclusion issued for criminal conduct, before issuing an exclusion under this chapter, a police officer must first give the person a warning and reasonable opportunity to desist from the violation. An exclusion will not be issued if the person promptly complies with the warning and desists from the violation.
- E. Written notice will be given to any person excluded from any city property under this chapter. The notice will specify the date, length, and place of the exclusion and a brief description of the offending conduct. The issuing police officer must sign the notice. The notice will also document any warnings given to the person as well as information on the process to appeal the exclusion.

(Ord. 12-02 §3; Ord. 19-19 §1)

§ 7.58.100. Right to Appeal.

- A. A person receiving notice of exclusion from city property may request a hearing before the

City of Tigard municipal court judge to have the exclusion rescinded or the period shortened. Written notice of the appeal must be filed with the Tigard municipal court within 10 business days of receipt of the exclusion notice. When the municipal court receives a notice of appeal, the municipal court will promptly notify the Tigard Police records section of the notice to appeal.

1. If an appeal of the exclusion is timely filed, the effectiveness of the exclusion will be stayed, pending the outcome of the appeal. If the exclusion is affirmed, the remaining period of exclusion will be effective immediately upon the issuance of the judge, unless the judge specifies a later effective date.
2. If a person is issued a subsequent exclusion while a previous exclusion is stayed pending appeal, the stayed exclusion will be counted in determining the appropriate length of the subsequent exclusion. If the predicate exclusion is set aside, the term of the subsequent exclusion will be reduced, as if the predicated exclusion had not been issued. If multiple exclusions issued to a single person for city property are simultaneously stayed pending appeal, the effective periods of those which are affirmed will run consecutively.

B. Hearing Procedures.

1. A hearing will be set and conducted within 10 business days of receipt of a timely request to appeal, excluding holidays. The hearing may be scheduled for a later date if the person excluded so requests, but in any case, no later than 15 additional business days from the original request.
2. At the hearing, the person excluded may contest the validity of the exclusion and may present evidence.
3. At the hearing, the city has the burden of proving by a preponderance of the evidence the validity of the exclusion. The city may present evidence either by testimony or written report of the officer. If the city's evidence is presented only by written report and the judge cannot resolve a question by information contained in the officer's report, the hearing may be held open for a reasonable time to complete the record.
4. The judge will uphold the exclusion if the judge finds, by a preponderance of the evidence, that the person excluded violated TMC 7.58.080.
5. If the judge finds that the city has not met its burden of proof, or that the exclusion is otherwise unlawful, then the municipal court judge will enter an order rescinding the exclusion. If the judge finds that the city has met its burden of proof, but that the length of the exclusion is unreasonable under the circumstances, the judge may issue an order shortening the length of the exclusion.
6. The decision of the judge is final.

(Ord. 19-19 §1)

§ 7.58.110. Variances.

- A. At any time within the period of exclusion, a person receiving a notice of exclusion may apply in writing to the Tigard municipal court for a waiver of some or all of the effects of the exclusion. The application must show good cause for waiver requested. If the judge

grants a waiver, the court will promptly notify the Tigard Police Department records section of such action.

- B. In exercising discretion under this subsection, the judge will consider the seriousness of the violation for which the person has been excluded, the particular need of the person to be on city property during some or all of the period of exclusion, such as for work or to attend or participate in a particular event (without regard to the content of any speech associated with that event), and any other criterion the judge determines to be relevant to the determination of whether or not to grant a waiver.
- C. The decision of the judge is final.
(Ord. 08-18 ; Ord. 19-19 §1)

CHAPTER 7.60 ABANDONED VEHICLES

§ 7.60.010. Definitions.

As used in this chapter, unless the context requires otherwise:

"Abandoned" or "abandoned vehicle." A vehicle shall be considered abandoned if it has remained in the same location for more than 24 hours and one or more of the following conditions exist:

1. The vehicle has an expired license plate; or
2. The vehicle appears to be inoperative or disabled; or
3. The vehicle appears to be wrecked, partially dismantled or junked.

"Chief of Police" includes the chief, designee of the chief or any authorized law enforcement officer of the city, including code enforcement officers.

"City" means the City of Tigard.

"Costs" means all expenses associated with the towing, storing and selling a vehicle in violation of Section 7.60.015.

"Owner" means any individual, firm, corporation or unincorporated association, partnership, limited liability company or other entity with a claim, either individually or jointly, of ownership or any interest of record, legal or equitable, in a vehicle.

"Stored" or "storage" means any vehicle that has remained in the same location for a minimum of 72 hours.

"Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices used exclusively upon stationary rails or tracks.

(Ord. 73-24 §1; Ord. 90-04 §1; Ord. 92-31 §1; Ord. 97-04 ; Ord. 18-01 §2)

§ 7.60.015. Abandoned or Stored Vehicles—Offense.

- A. It is unlawful for any person to abandon a vehicle on any public right-of-way or other public property within the City of Tigard. The owner(s) of the vehicle shall be responsible for any and all monies incurred or charges associated with the cost of the removal, storage, detention, maintenance and disposition of the abandoned or stored vehicle.
- B. Except for those vehicles subject to the provisions of subsection C, a vehicle found to be in violation of subsection 1 above, is subject to the provisions for notice, removal, impoundment and disposition as provided for under Sections 7.60.020, 7.60.030, 7.60.050, and 7.60.070 to 7.60.110 of this chapter.
- C. In the event a vehicle is abandoned or stored upon a public right-of-way or on public property which vehicle has, on two prior occasions within a one-year period, been identified by the Chief of Police as abandoned or stored and the owner thereof has been given notice consistent with the terms of Section 7.60.020 on both prior occasions, then the vehicle is deemed to be a threat to the traveling public and can therefore be immediately towed and impounded by the city without prior notice to the owner or apparent owner

thereof. However, notice consistent with Section 7.60.050 shall be sent to the owner or apparent owner thereof within 48 hours of the impoundment, excluding Saturdays, Sundays and legal holidays.

- D. The violation of this chapter is a Class B traffic infraction.
(Ord. 90-04 §1; Ord. 97-04 ; Ord. 18-01 §2)

§ 7.60.020. Removal—Notice.

- A. If a vehicle is found abandoned or stored as described above, the city shall give notice to remove the vehicle by affixing a notice to tow the vehicle.
- B. In the event a vehicle is abandoned or stored in a location or manner as to constitute an imminent or immediate hazard or obstruction to traffic, the Chief of Police may immediately take custody of and remove said vehicle without giving the notice provided for above prior to the tow and impoundment.
- (Ord. 73-24 §2; Ord. 90-04 §3; Ord. 97-04 ; Ord. 18-01 §2)

§ 7.60.030. Removal—Procedure.

An abandoned or stored vehicle which remains in the same position, or has not been moved a minimum of 500 feet from its earlier position for a period of 24 hours (holidays, Saturdays and Sundays not included) after an owner has been requested to remove it or after notice has been served as required by Section 7.60.020, may be removed by the Police Department using their own personnel, equipment or facilities or those of others.

(Ord. 73-24 §3; Ord. 90-04 §4; Ord. 92-31 §2; Ord. 97-04 ; Ord. 18-01 §2; Ord. 18-03 §1)

§ 7.60.040. Information Provided by Tower.

- A. A person who tows a vehicle at the request of the city shall provide notice to the person claiming the vehicle, containing the following information:
1. That the vehicle has been towed for violation of the Tigard Municipal Code; and
 2. That a hearing may be requested to contest the validity of the tow, the time within which to make the request, and the method for making the request.
- B. Each person who redeems a vehicle shall sign a copy of the receipt issued, indicating that they have received notice of their right to a hearing.
- (Ord. 73-24 §4; Ord. 90-04 §5; Ord. 97-04)

§ 7.60.050. Impoundment—Notice.

- A. If the city takes custody of a vehicle, it shall provide, by first class mail and also by certified mail with the receipt stamped as proof of mailing, within 48 hours of the removal, notice to the owners of the vehicle as shown in the records of the Department of Motor Vehicles of the availability of a right to a hearing to contest the towing and impoundment. The 48-hour period does not include holidays, Saturdays or Sundays.
- B. Any notice given under this section after a vehicle is taken into custody and removed shall state all of the following:
1. That the vehicle has been impounded as a result of its violation of Chapter 7.60 of the

Tigard Municipal Code;

2. The place where the vehicle is impounded or the telephone number and address of the appropriate authority that will provide the information;
3. That the vehicle is subject to towing and storage charges as well as the accruing rate for the daily storage charges;
4. That the vehicle and its contents are subject to lien for payment of the towing and storage charges and that the vehicle and its contents may be sold by the city or the towing and storage facility to cover the charges if the charges are not paid within 15 days;
5. That the owner of the vehicle or its contents is entitled to a prompt hearing to contest the validity of custody and the reasonableness of the charges therefor;
6. That the hearing must be requested not more than five days, (holidays, Saturdays or Sundays not included), from the mailing date of the notice and the method for requesting a hearing;
7. That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and payment of all the accrued towing and storage charges.

(Ord. 73-24 §5; Ord. 90-04 §6; Ord. 97-04 ; Ord. 18-01 §2)

§ 7.60.055. Hearing to Contest Validity of Custody and Removal.

- A. An owner or any other person who reasonably appears to have an interest in the vehicle may request a hearing to contest the validity of the tow or impoundment of a vehicle by submitting a written request for hearing with the city not more than five days from the mailing date of the notice. The request shall state the reason(s) why the owner or other interested person believes that tow and/or impoundment is or would be improper. A hearing shall comply with all of the following:
 1. Upon receipt of a proper request for a hearing, the city shall set a time for a hearing within 72 hours of the receipt of the request and shall provide notice of the hearing to the owners of the vehicle. The 72-hour period in this subsection does not include holidays, Saturdays or Sundays.
 2. Hearings held under this section may be informal in nature, but shall afford a reasonable opportunity for the person requesting the hearing to demonstrate by the statements of witnesses and other evidence, that the tow or storage of the vehicle was invalid, or for any other reason not justified.
 3. The city shall provide a written statement of the results of the hearing to the person requesting the hearing.
 4. If the city finds after a hearing that the custody and removal of a vehicle was:
 - a. Invalid, the city shall order the immediate release of the vehicle to the owner or other person who demonstrates a right to possession of the vehicle. If the vehicle is ordered released, the person to whom the vehicle is released is not liable for any predecision towing or storage charges. If the person has paid the towing and

storage charges, the city shall reimburse the person for the payment. The person shall be liable for storage charges incurred more than 24 hours after the time the vehicle is officially ordered released to the person.

- b. Valid, the city shall order the vehicle be held until the costs of the hearing and all towing and storage costs are paid. If the vehicle has not yet been removed, the city shall order its removal.
5. A person failing to appear at a hearing is not entitled to another hearing unless the person provides the city satisfactory proof for the person's failure to appear.
6. The city is only required to provide one hearing each time it proposes to or takes a vehicle into custody and thereafter removes the vehicle.
7. The Hearings Officer may be an officer, official or employee of the city, other than the City Police Department, but may not have participated in any determination or investigation related to the tow or impoundment of the vehicle. The Hearings Officer may promulgate rules for conducting hearings.
8. The determination of the Hearings Officer at a hearing is final and not subject to appeal.

(Ord. 90-04 §7; Ord. 97-04 ; Ord. 18-01 §2)

§ 7.60.057. Exemption for Criminal Investigation.

A vehicle that is being held as part of any criminal investigation is not subject to any requirements of Sections 7.60.020, 7.60.050 and 7.60.055.

(Ord. 90-04 §8; Ord. 97-04)

§ 7.60.060. Appraisals.

A person who is issued an appraiser certificate by the Department of Motor Vehicles shall be the only person qualified to appraise vehicles for sale under Sections 7.60.070 and 7.60.080 through 7.60.090.

(Ord. 73-24 §6; Ord. 90-04 §9; Ord. 97-04)

§ 7.60.070. Vehicles—Disposition.

A. As often as necessary, the Chief of Police shall be provided with a list of all unclaimed vehicles which have been towed and stored by or for the city.

1. If the vehicle has been stored for more than 15 days and has been appraised at \$750 or less, or has been in storage for 30 days or longer, the Chief of Police shall as soon as convenient, authorize the sale of the vehicle in accordance with the provisions of any contract pertaining thereto. If there is no contract, the Chief of Police shall file with the Department of Motor Vehicles the license plates, if any, and an affidavit describing the vehicle, stating the location and appraised value of the vehicle, and stating that the vehicle will be junked or dismantled. The Chief of Police or designee shall state that notice of intent to junk or dismantle the vehicle has been sent with notification of the location of the vehicle to the owner.
2. Failure of the owner to reclaim the vehicle within 15 days after the date notification

is mailed shall constitute a waiver of his or her interest in the vehicle.

3. Upon completion and forwarding of the affidavit and expiration of the time period stated in subsection A.2 of this section, the Chief of Police may, without notice and public auction, dispose of the vehicle and execute a certificate of sale.
4. The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. 73-_____ entitled "An Ordinance Providing for the Impounding and Disposition of Abandoned Vehicles," I did on the _____ day of 20____, sell to _____, for the sum of \$_____ cash, the following described personal property, to-wit:

(Brief description of property)

Dated this _____ day of _____, 20____.

Note: The City of Tigard assumes no responsibility as to the condition of title of the above described property. In case this sale shall for any reason be invalid, the liability of the City of Tigard is limited to the return of the purchase price.

5. In the event a vehicle is sold in accordance with the provisions of a contract, the Chief of Police shall ensure that, at the time of sale, that a certificate of sale in substantially the same form as described in subsection A.4 of this section is issued to the purchaser.

(Ord. 73-24 §7; Ord. 90-04 §§10, 11; Ord. 97-04 ; Ord. 18-01 §2)

§ 7.60.080. Sale—Notice.

- A. The Chief of Police may decide to sell at public auction any vehicle which has not been claimed within 30 days and which is valued at \$750 or more, if there is no contract authorized by the council pertaining thereto. If there is to be a public auction, the Chief of Police shall cause to be published, in a newspaper of general circulation within the city, a notice of sale which shall state:
 1. The sale is of abandoned property in the city's possession;
 2. A description of the vehicle, including the type, make, license number, vehicle identification number and any other information which will aid in accurately identifying the vehicle;
 3. The terms of the sale;
 4. The date, time and place of the sale.
- B. The notice of sale shall be published two times. The first publication shall be made not less than 10 days prior to the date of the proposed sale, and the second shall be made not less than three days prior to the date of the proposed sale.

(Ord. 73-24 §8; Ord. 90-04 §12; Ord. 97-04 ; Ord. 18-01 §2)

§ 7.60.090. Sale—Procedure.

- A. If the Chief of Police decides to sell any vehicles under the provisions of Section 7.60.080, the sale shall be at the time and place appointed with the vehicle to be sold in view.

- B. The vehicle shall be sold to the highest bidder, providing that if no bids are entered, or those bids which are entered, are less than the costs incurred by the city, the Chief of Police may enter in his or her discretion a bid on behalf of the city in an amount equal to such costs.
- C. At the time of payment of the purchase price, the Chief of Police shall execute a certificate of sale, in triplicate, the original of which shall be delivered to the purchaser, a copy thereof filed with the City Recorder, and a copy transmitted to the Oregon Department of Motor Vehicles.
- D. The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. 73-____ entitled, "An Ordinance Providing for the Impounding and Disposition of Abandoned Vehicles," and pursuant to due notice of the time and place of sale, I did on the ____ day of ____, 20____, sell at public auction to _____, for the sum of \$_____ cash, he being the highest bidder, and that being the highest and best sum bid therefor, the following described personal property, to-wit:

(Brief description of the property)

And in consideration of the payment of the said sum of \$_____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this _____ day of _____, 20____.

Note: The City of Tigard assumes no responsibility as to the condition of title of the above described property. In case this sale shall for any reason be invalid, the liability of the City of Tigard is limited to the return of the purchase price.

(Ord. 73-24 §9; Ord. 90-04 §13; Ord. 97-04 ; Ord. 18-01 §2)

§ 7.60.100. Redemption before Sale.

- A. An owner may redeem a vehicle impounded under the provisions of this chapter, before a sale or disposition has taken place, by applying to the Chief of Police. The redemption application shall include:
1. Evidence satisfactory to the Chief of Police of the applicant's ownership or other interest in the vehicle, that such claim is rightful; and
 2. Pay any and all costs associated with the towing and storage of the vehicle due and owing at the time the application is made.
- B. Upon compliance with subsection A of this section, the Chief of Police shall execute a receipt for the owner and cause the vehicle to be returned to him or her.

(Ord. 73-24 §10; Ord. 97-04)

§ 7.60.110. Sale—Proceeds Disposition.

- A. Upon a sale being consummated, the Chief of Police shall deliver the vehicle and the certificate of sale to the purchaser. The sale and conveyance shall be without redemption.
- B. The proceeds of a sale shall be applied:

1. To payment of costs incurred by the city; and
2. The balance, if any, shall be transferred to the City Recorder, to be credited to the general fund of the city.

(Ord. 73-24 §11; Ord. 97-04)

§ 7.60.120. Application.

This chapter shall apply to all abandoned vehicles now in the possession of the city, as well as to abandoned vehicles that are hereafter impounded.

(Ord. 73-24 §12; Ord. 97-04)

§ 7.60.130. Charges.

A person or owner entitled to a vehicle held under the provisions of this chapter is not liable for nor shall be required to pay storage charges for a period in excess of 60 days.

(Ord. 73-24 §13; Ord. 90-04 §14; Ord. 97-04)

§ 7.60.140. Forms.

All forms necessary to implement and enforce the provisions of this chapter shall be prepared and on file in the City Recorder's office.

(Ord. 73-24 §14; Ord. 90-04 §15; Ord. 97-04)

§ 7.60.150. Claim of Owner to Proceeds.

- A. If the vehicle is sold by the Chief of Police under the provisions of Sections 7.60.070 or 7.60.080 and 7.60.090, then at any time within two years after the sale of the vehicle the former owner of the vehicle may recover the proceeds of the sale, as deposited in the general fund of the city pursuant to Section 7.60.110, by filing a claim with the City Treasurer. Such claims shall be audited in the same manner as other claims against the city.
- B. If the vehicle is sold under the provisions of a contract, the balance of the proceeds of the sale, with a return of sale, shall be transmitted to the City Treasurer for deposit in the general fund of the city. The towing and storage facility under contract may deduct from the proceeds of the sale the costs incurred in the sale and the costs and expenses in the removal, preservation and custody of the vehicle. At any time within two years after the sale of the vehicle the former owner of the vehicle may recover the proceeds of the sale, as deposited in the general fund of the city, by filing a claim with the City Treasurer.

(Ord. 73-24 §15; Ord. 90-04 §16; Ord. 97-04)

CHAPTER 7.70 SECONDHAND DEALERS AND TRANSIENT MERCHANTS

Note: Prior ordinance history: Ord. Nos. 02-05, 83-26.

§ 7.70.010. Purpose.

The purpose of adopting this chapter is to regulate certain business activities that present an extraordinary risk of being used by criminals to dispose of stolen property. Despite the best efforts of legitimate secondhand dealer businesses, this risk is present because these businesses process large volumes of goods and materials that are frequently the subject of theft. This chapter is intended to reduce this type of criminal activity by providing timely police awareness of such property transactions and by regulating the conduct of persons engaged in this business activity. These regulations are necessary and the need for the regulations outweighs the regulatory effect that may result from their adoption.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.020. Definitions.

As used in this chapter, unless the context requires otherwise:

"Acceptable identification" means either a current driver's license, a State of Oregon Identification Card issued by the Department of Motor Vehicles, or two current United States, state, or local government-issued identification cards, one of which has a photograph of the seller. Transactions which are accompanied by a thumbprint require only one current United States, state, or local government-issued identification card which has a photograph of the seller, or a current passport from any country.

"Acquire" means to take or transfer any interest in personal property in a voluntary transaction, including, but not limited to: sales, consignments, memoranda between a dealer and a private party seller, leases, trade-ins, loans, and abandonments. "Acquire" also means to take or transfer any interest in precious metals, in a voluntary transaction, for the purpose of refinement. Any acquisition of regulated property by a dealer will be presumed to be an acquisition on behalf of the secondhand dealer business. Notwithstanding the foregoing, "acquire" does not include:

1. Any loans made in compliance with state laws by persons licensed as pawnbrokers by the State of Oregon; or
2. Memoranda between a secondhand dealer and a person engaged in the business of selling regulated property.

"Business location" means any physical location where the dealer conducts business.

"Chief of police" means the chief of the Tigard Police Department or his/her designee.

"Criminal arrests or a conviction" refers to any offense defined by the statutes of the State of Oregon or ordinances of the City of Tigard, unless otherwise specified. Any arrest or conviction for conduct other than that denoted by the statutes of the State of Oregon or ordinances of the City of Tigard, as specified herein, will be considered to be equivalent to one of such offenses if the elements of such offense for which the person was arrested or convicted would have constituted one of the above offenses under the applicable Oregon statutes or City of Tigard ordinance provisions.

"Dealer" or "secondhand dealer."

1. Means any:

a. Sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business and that either:

- i. Acquires regulated property at or from business locations within the City of Tigard, or on behalf of such a business regardless of where the acquisition occurs; or
- ii. Offers for sale regulated property.

b. Pawnbroker licensed under the Oregon Pawnbroker's Act, ORS 726.040 et seq.

2. Dealers that acquire or offer for sale not more than 50 items of regulated property in any one-year period will be categorized as an "occasional secondhand dealer." The term "dealer" in this chapter and all regulations herein refer to secondhand dealers, occasional secondhand dealers and pawnbrokers unless specifically stated otherwise.

3. "Dealer" does not include:

- a. A business whose acquisitions of regulated property consist exclusively of donated items and/or purchases from 501(c)(3) organizations; or
- b. A person whose only business transactions with regulated property in the City of Tigard consist of the sale of personal property acquired for household or other personal use; or
- c. A person whose only business transactions with regulated property in the City of Tigard consist of a display space, booth, or table maintained for displaying or selling merchandise at any trade show, convention, festival, fair, circus, market, flea market, swap meet or similar event for less than 14 days in any calendar year.

"Held property" means any regulated property that cannot be sold, dismantled or otherwise disposed of for a prescribed period of time as more specifically enumerated in Section 7.70.090.

"Investment purposes" means the purchase of personal property by businesses and the retention of that property in the same form as purchased, for resale to persons who are purchasing the property primarily as an investment.

"Medication" means any substance or preparation, prescription or over-the-counter, used in treating or caring for ailments and/or conditions in humans or animals.

"New" means anything not used.

"Pawnbroker" means any business required by Oregon Revised Statute 726.040 to hold an Oregon pawnbroker's license. Pawnbrokers are required by Chapter 7.70 to have a secondhand dealer permit. As a dealer, all transactions occurring within their business (loans, buys, or consignments) are subject to all requirements within this chapter unless otherwise stated.

"Person" means a natural person.

"Principal" means any person who will be directly engaged or employed in the management or

operation of the secondhand dealer business, including any owners and any shareholders with a five percent or greater interest in the company.

"Receive" means to take property into the inventory, possession, or control of a dealer.

A "registered business" must be:

1. Registered with the Secretary of State Corporate Division or its equivalent in the state where the business is located; and
2. In compliance with the City of Tigard business license registration requirements.

"Recordkeeping system" means the program designated by the chief of police as the secondhand dealer transaction recordkeeping system.

"Regulated property" means property of a type that has been determined by the chief of police to be property that is frequently the subject of theft, including new items as defined in this section as well as used items such as precious metals, precious gems, watches, sterling silver, electronic equipment, photography equipment, tools, musical instruments and cases, firearms, sporting equipment, and household appliances. In order to enhance the police department's ability to reduce property crimes and recover stolen goods, a list of regulated property may be included in the administrative policies and procedures, and shall be updated by the chief of police. A copy will be kept on file in the Tigard Police Department.

"Remanufactured" means that an item has been altered to the degree that the main components are no longer identifiable as the original item.

"Seller" means any person who:

1. Offers items of regulated property in exchange for money or other property; or as collateral for a loan; or
2. Donates or abandons items of regulated property.

"Trade show" means an event open to the public, held in a venue other than a dealer's business location, at which vendors of a specific type of merchandise may exhibit, buy, sell, or trade items that may include regulated property.

Events commonly known as flea markets or swap meets, in which goods of many types are exhibited, sold or traded, are not considered trade shows for the purpose of this chapter.

"Transaction report" means the record of the information required by Section 7.70.080, transmitted to the Tigard Police Department by the means required in Section 7.70.080.

"Transient merchant" means any person:

1. Engaged in the business of purchasing or acquiring regulated property from business locations within the City of Tigard;
2. Engaged as an itinerant or temporary business under the provisions of the Tigard Municipal Code, Chapter 5.04; and
3. Engaged in the business of purchasing such regulated property from any person not representing a business which is required to be issued a business license or special certificate under Chapter 5.04 of the Tigard Municipal Code, and who appears with such articles at the dealer's place of business.

"Used" means anything that has been put into action or service.
(Ord. 09-07 §1; Ord. 14-11 §1; Ord. 18-15 §1)

§ 7.70.030. Secondhand Dealer License Required.

- A. No person or business shall engage in, conduct or carry on a secondhand dealer business in the City of Tigard without a valid secondhand dealer license issued by the City of Tigard. A secondhand dealer license shall be required in addition to a business license or special certificate required by Chapter 5.04 of the Tigard Municipal Code, or any other city license or permit.
- B. Dealers that acquire or offer for sale not more than 50 items of regulated property in any one-year period are categorized as an "occasional secondhand dealer." Upon acquiring or offering for sale more than 50 items of regulated property during any one-year period, an occasional secondhand dealer shall apply for and obtain a secondhand dealer license and comply with all the regulations of a secondhand dealer before acquiring any more items of regulated property.
- C. Any person or business that advertises or otherwise holds him/herself out to be acquiring or offering for sale regulated property within the City of Tigard will be presumed to be operating as a dealer subject to the terms of Chapter 7.70.
- D. The sale of regulated property at events commonly known as "garage sales," "yard sales," or "estate sales" is exempt from these regulations if all of the following are present:
 - 1. No sale exceeds a period of 72 consecutive hours; and
 - 2. No more than four sales are held at the same location in any 12-month period.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.035. Minimum Standards.

- A. No person or business may operate as a dealer within the City of Tigard unless the person or business maintains a fixed physical business location.
- B. Dealers shall comply with all applicable federal, state and local regulations.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.040. Application for Secondhand Dealer License.

- A. An applicant for a secondhand dealer license shall complete and submit an application (including required personal history forms) that sets forth the following information:
 - 1. The name, address, telephone number, birth date and principle occupation of all owners and any person who will be directly engaged or employed in the management or operation of the business or the proposed business;
 - 2. The name, address and telephone number of the business or proposed business and a description of the exact nature of the business to be operated;
 - 3. The Web address of any and all Web pages used to acquire or offer for sale regulated property on behalf of the dealer, and any and all Internet auction account names used to acquire or offer for sale regulated property on behalf of the dealer;

4. Written proof that all principals are at least 18 years of age;
 5. Each principal's business occupation or employment for the three years immediately preceding the date of application;
 6. The business license and permit history of the applicant in operating a business identical to or similar to those regulated by Chapter 7.70;
 7. A brief summary of the applicant's business history in any jurisdiction including:
 - a. The business license or permit history of the applicant, and
 - b. Whether the applicant or any principal has ever had any business-related license or permit revoked or suspended, the reasons therefor, and the business activity or occupation of the applicant or principal subsequent to the suspension or revocation;
 8. Whether the applicant will be a sole proprietorship, partnership, limited partnership, family limited partnership, joint venture, association, cooperative, trust, estate, corporation, personal holding company, limited liability company, limited liability partnership or any other form of organization for doing business.
 - a. If a partnership, the application must set forth the names, birth dates, addresses, telephone numbers, and principle occupations, along with all other information required of any individual applicant, of each partner, whether general, limited, or silent, and the respective ownership shares owned by each.
 - b. If a corporation, or limited liability company, the application must set forth the corporate or company name, copies of the articles of incorporation or organization and the corporate by-laws or operating agreement, and the names, addresses, birth dates, telephone numbers, and principle occupations, along with all other information required of any individual applicant, of every officer, director, members or managers, and shareholder (owning more than five percent of the outstanding shares) and the number of shares held by each;
 9. If the applicant does not own the business premises, a true and complete copy of the executed lease (and the legal description of the premises to be permitted) must be attached to the application;
 10. All arrests or convictions of each principal enumerated in subsection A of this section;
 11. Upon request, principals and employees shall submit to the Tigard Police Department the following information: fingerprints, passport-size photographs, and a copy of the signature initials to be used by persons on transaction report forms. Principals and employees must submit new photos if requested to do so by the Tigard Police Department;
 12. Any other information that the chief of police may reasonably feel is necessary to accomplish the goals of this chapter.
- B. The secondhand dealer shall notify the chief of police of any changes in the information required in subsection A of this section within 10 business days.
- C. New employees of dealers shall complete and submit the personal history form as required

in subsection A of this section. Employees may not acquire regulated property until all required information has been reviewed and approved by the Tigard Police Department. The criteria used to review a new employee will be the same as those used in the review of an initial application in Chapter 7.70.

- D. The personal and business information contained in the application forms required pursuant to Section 7.70.040 are subject to the requirements of the Oregon Public Records Law, ORS 192.410 et seq.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.045. Surety Bond Required.

No person shall engage in business as a transient merchant until such merchant has filed with the city recorder of the city a \$10,000.00 bond, with a surety company licensed to do business in the State of Oregon as surety, for the benefit of any person damaged by false, fraudulent, or misleading representations of the transient merchant in the conduct of his/her business.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.050. Issuance and Renewal of Secondhand Dealer License.

- A. Upon the filing of an application for a secondhand dealer license and payment of the required fee, the chief of police shall conduct an investigation of the applicant and all principals and employees listed according to the requirements in Section 7.70.040. The chief of police shall issue the license within 90 days of receiving the application if no cause for denial exists.
- B. Except as provided in Section 7.70.050 the chief of police shall deny an application for a secondhand dealer special license if any of the following apply:
1. The applicant, or any person who will be directly engaged in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 7.70, and
 - a. The license or permit for the business has been revoked for cause that would be grounds for revocation pursuant to Chapter 7.70, or
 - b. The business has been found to constitute a public nuisance and abatement has been ordered;
 2. Any person listed on the initial application or renewal application has been convicted of one or more of the offenses listed below or has violated any section of Chapter 7.70. The offenses include:
 - a. Any felony,
 - b. Any misdemeanor or violation involving either bribery, controlled substances, deception, dishonesty, forgery, fraud, or theft, or any attempt or conspiracy to commit any of the listed offenses;
 3. The chief of police finds by a preponderance of the evidence that the applicant or any principal or employee has committed any offense relating to fraud, theft or any attempt or conspiracy to commit theft, or any offense listed in Section 7.70.120;

4. The chief of police finds by a preponderance of the evidence that the applicant or any principal or employee who will be involved in the business has violated any law where the elements of such law are equivalent to the provisions of Chapter 7.70;
 5. Any statement in the application is false or any required information is withheld; or
 6. The chief of police finds by a preponderance of the evidence that the applicant, or any person who will be directly engaged or employed in the management or operation of the business, or any person who owns a five percent or more interest in the business, has previously owned or operated a business regulated by Chapter 7.70 or any laws or statutes equivalent to the provisions of Chapter 7.70, and the business has violated applicable state, federal or local requirements, including permitting requirements.
- C. Notwithstanding Section 7.70.050, the chief of police may grant a permit after consulting with the city council despite the presence of one or more of the enumerated factors if the applicant establishes to the chief of police's reasonable satisfaction that:
1. The behavior evidenced by such factor is not likely to recur; or
 2. The behavior evidenced by such factor is remote in time; or
 3. The behavior evidenced by such factor occurred under circumstances that diminish the seriousness of the factor as it relates to the purpose of Chapter 7.70.
- D. Secondhand dealer licenses are valid for one year and expire at 12 a.m. on January 15th of each year. The licenses are nontransferable and are valid only for a single business location. When the business location is to be changed, the license holder shall provide the address of the new location in writing to the chief of police for approval at least 14 days prior to the change.
- E. Secondhand dealer licenses must be displayed at the business location in a manner readily visible to patrons.
- F. Upon denial of an application for a secondhand dealer license, the chief of police shall give the applicant written notice of the denial.
 1. Service of the notice will be accomplished by mailing the notice to the applicant by certified mail, return receipt requested.
 2. Mailing of the notice will be prima facie evidence of receipt of the notice.
 3. The denial will be effective the date the notice is sent.
- G. Denial of a license may be appealed by filing written notice of an appeal within 10 days of the date of denial in accordance with Section 7.70.150.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.060. Secondhand Dealer License Fees.

Every dealer shall complete and submit all required forms to the chief of police and pay a nonrefundable fee as set forth by the City of Tigard Master Fees and Charges Schedule.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.070. Subsequent Locations.

- A. Dealers must file an application for a license for a subsequent or additional business location with the Tigard Police Department and pay a nonrefundable fee as set forth in the City of Tigard Master Fees and Charges Schedule; provided the information required for the subsequent or additional business location is identical to that provided in the application for the prior location with the exception of that required by Section 7.70.040.
- B. Secondhand dealer licenses issued for subsequent or additional business locations will be subject to all the requirements of this chapter, and the term of the license issued for a subsequent or additional location will expire on the same date as the initial permit.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.080. Reporting of Secondhand Dealer Transactions.

- A. Dealers shall provide to the Tigard Police Department all required information as set forth by the Tigard Police Department for each regulated property transaction (not including sales). The chief of police may designate the format for the transfer of this information and may direct that it be communicated to the criminal investigations unit by means of mail, the Internet, or other computer media.
 1. In any such case that the chief directs that the information be transmitted via computer media, the chief may also direct the system that will be utilized in order to ensure conformity among all secondhand dealers. All secondhand dealers shall enter their transactions into the city's recordkeeping system.
 2. If, after establishing the format and requirements for the transmission of computerized reports of transactions, the chief of police alters the required format, dealers will be given at least 60 days to comply with the new format requirements. If unable to implement the reporting system before the deadline, a dealer must submit a written request for additional time to the chief of police before the deadline.
 3. Pawnbrokers are required to report only new transactions. Loan renewals do not need to be reported.
- B. The following apply to occasional secondhand dealers:
 1. Occasional secondhand dealers may request an exemption from using the recordkeeping system. The exemption will allow occasional secondhand dealers to, as an alternative, submit their transactions on transaction report forms created by the chief of police. The request for this exemption must be made in writing to the chief of police.
 2. The Tigard Police Department will provide all occasional secondhand dealers with transaction report forms at cost until 60 days after such time that the chief of police directs a change in the reporting method. The chief of police may specify the format of the transaction report form. The chief of police may require that the transaction report form include any information relating to the regulations of this chapter. Dealers may utilize their own forms, in lieu of those supplied by the Tigard Police Department, if the chief of police has approved such forms. The declaration of proof of ownership will be considered to be included in references in this chapter to the transaction report form, as appropriate.

(Ord. 09-07 §1; Ord. 14-11 §1; Ord. 18-15 §1)

§ 7.70.090. Regulated Property Sale Limitations.

A. Regulated property is subject to the following limitations:

1. Holding Period. Regulated property acquired by any secondhand dealer must be held for a period of 30 full days from the date of acquisition. Pawnbroker loan transactions are exempt from the 30-day hold requirements of Section 7.70.090 because of the redeemable nature of the loans and the holding requirements in ORS 726. However, if the loan is converted to a buy by the pawnbroker within 30 days from the date of the pawn transaction, the difference between the original date of the pawn and the buy will count toward the 30-day hold requirement. All other provisions of Section 7.70.090 remain in effect.
2. The following sections apply to the hold period:
 - a. The hold period for items may be reduced from 30 days to 20 days if the item either displays a complete legible serial number; or is an item of jewelry; or is precious metal scrap. The dealer must:
 - i. Report the acquisition into the recordkeeping system on the same day the acquisition occurs;
 - ii. Include a description in the recordkeeping system entry of the degree of detail for the type of item as required in the administrative policies and procedures and Tigard Municipal Code Chapter 7.70;
 - iii. Include a digital photograph of sufficient size and focus to identify the item and distinguish it from similar items and that clearly shows any legible serial number on the item in the recordkeeping system entry; and
 - iv. Comply with all remaining requirements in the administrative policies and procedures.
 - b. A dealer may be required to reinstate a 30-day hold period if an examination of the recordkeeping system entries reveals a pattern of insufficient item descriptions or insufficient photographs.
3. Requirements of Held Property. All held property must remain in the same form as when received, must not be sold, dismantled or otherwise disposed of and must be kept separate and apart from all other property during the holding period to prevent theft or accidental sale and to allow for identification and examination by the Tigard Police Department. Held property must be kept at the business location where it was acquired (including hotels or temporary event locations) during this holding period so that it can be inspected during normal business hours (as provided in Section 7.70.110). Held property, other than property on police hold, may be held in a place within public view, as long as the other requirements of Section 7.70.090.A.2, are met.
4. Held property requirements do not apply if:
 - a. The property is received from a secondhand dealer regulated by the City of Tigard who has already satisfied the holding requirements of this chapter and the dealer records the original transaction report number on the transaction

- report completed for the new transaction; or
- b. If a customer, who originally purchased property from a secondhand dealer, returns it to that dealer with the original receipt.
- B. Notwithstanding this Section 7.70.090, the chief of police may determine that certain types of transactions pose a reduced risk of being an outlet for the sale of stolen property and therefore may modify the hold period or reporting requirements for those types of transactions. Those transactions and the modified requirements are described in the administrative policies and procedures.
- C. Upon reasonable belief that an item of regulated property is the subject of a crime, any peace officer may provide notice to any dealer that a specifically described item of regulated property must be held in a separate police hold area for a period not to exceed 30 days from the date of notification, and is subject to the requirements of Section 7.70.090.A.2 of this section. The hold may be extended an additional 30 days upon notice provided to the dealer that additional time is needed to determine whether a specific item of regulated property is the subject of a crime. The dealer shall comply with the hold notice and notify the Tigard Police Department criminal investigations unit of the hold notice no later than five calendar days from the day the notice was received, either by telephone, fax, email or in person. A dealer must notify the criminal investigations unit of his/her intent to dispose of any item of regulated property under police hold at least 10 days prior to doing so.
1. A police hold area must meet the following criteria:
- a. Located out of public view and access, and
- b. Marked "police hold," and
- c. Contain only items that have been put on police hold.
2. Dealers may maintain up to three police hold areas as necessary for the safe storage of high value items, physically large items, and general merchandise put on police hold.
3. If it is not possible or practical to move an item to or store an item in the police hold area, a dealer may submit a written request to the chief of police for approval to keep the item with other held property. Approval may be granted with the understanding that the item will be clearly marked as being on police hold and kept from public view and access.
- D. Upon probable cause that an item of property is the subject of a crime, the chief of police may take physical custody of the item or provide written notice to any dealer to hold such property for a period of time as determined by the chief of police or any Tigard police officer, not to exceed the statute of limitations for the crime being investigated. Any property placed on hold pursuant to this subsection is subject to the requirements found in Section 7.70.090.A.2, and will be maintained in the police hold area unless seized or released by the police. Seizure of property will be carried out in accordance with Oregon Revised Statutes.
- E. Items held or seized under TMC Section 7.70.090.D may not be released to anyone other than the dealer unless the property is released to:

1. Another law enforcement agency that has provided documentation to the satisfaction of the chief of police of the stolen status of the property; or
 2. A person who reported the property as stolen when all of the following are present:
 - a. A stolen property report has been filed with a law enforcement agency where making an untruthful report is a violation of the law, and
 - b. A notice has been delivered to the dealer holding the property or from whom the property was seized.
 - i. The notice required by this subsection will state that the property is being released to the person who has filed the stolen property report.
 - ii. The notice required by this subsection will be sent electronically with a request for acknowledgement, or delivered in person to the dealer at the email or physical address shown on the dealer's permit application or most recent permit renewal application, and to the pawn/seller at the address shown in the transaction report required by TMC Chapter 7.70. The chief of police may release property to the owner after the notice required by this subsection has been delivered; proof of receipt of the notice is not required.
 - iii. The failure of any person to receive the notice required in this subsection will not invalidate or otherwise affect the proceedings of this subsection.
- F. If a dealer acquires regulated property with serial numbers, personalized inscriptions or initials, or other identifying marks which have been destroyed or are illegible due to obvious normal use, the dealer shall continue to hold the property at the business location for a period of 90 full days after acquisition. The dealer must notify the Tigard Police Department by writing "90 day hold" next to the item on the transaction report or by an electronic means approved by the Tigard Police Department. The held property must conform to all the requirements found in Section 7.70.090.A.2.
- G. If a dealer receives information that leads to an objectively reasonable basis to believe that any property already at his/her business location has been previously lost or stolen, he/she must report that belief to the Tigard Police Department by day's end. The notice must include the transaction report number and any additional information regarding the name of the owner, if known.
- H. If a peace officer employed by an agency other than Tigard seizes any property from a dealer, the dealer must notify the Tigard Police Department of the seizure no later than five calendar days from the day the seizure occurs. The dealer must provide the name of the agency, the name of the peace officer, the number of the receipt left for the seizure, and the seized property information. Notification to the Tigard Police Department may be given by telephone, fax, email, or in person.
- (Ord. 09-07 §1; Ord. 14-11 §1; Ord. 18-15 §1; Ord. 19-04 §1)

§ 7.70.100. Tagging Regulated Property for Identification.

Dealers shall affix a tag to every item of regulated property, which must contain a unique, legible number. That unique number must either be the same as the transaction report number for that

item or be referenced to the transaction report required by the Tigard Police Department. After the holding period has expired, the transaction number must remain identifiable on the property until the sale of the property.

- A. After the applicable holding period has expired, hand tools, or items that are sold with other like items and have no identifiable numbers or markings need not remain tagged.
- B. After the applicable holding period has expired, items that are remanufactured need not remain tagged.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.110. Inspection of Property and Records.

Upon presentation of official identification, a dealer shall allow any representative of the Tigard Police Department to enter the business location to ensure compliance with the provisions of Chapter 7.70. The inspection will be for the limited purpose of inspecting the business location, regulated property, and related records as provided in this chapter. Except by mutual agreement with the dealer or by court order, any inspection under this section may occur only during the dealer's normal business hours.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.120. Prohibited Acts.

- A. It is unlawful for any person regulated by Chapter 7.70:
 1. To receive any property from any person:
 - a. Known to the principal, employee or dealer to be prohibited from selling by a court order,
 - b. Under the age of 18 years unless the person's parent or guardian completes the applicable information on the declaration of proof of ownership,
 - c. About whom the principal, employee or dealer has been given notice by law enforcement as having been convicted of burglary, robbery, theft or possession of or receiving stolen property within the past 10 years whether the person is acting in his/her own behalf or as the agent of another who meets the above criteria;
 2. To receive property prohibited by this chapter, including:
 - a. Medications,
 - b. Gift cards, in-store credit cards, or activated phone cards,
 - c. Property with serial numbers, personalized inscriptions or initials or other identifying marks that appear to have been intentionally altered or rendered illegible;
 3. To receive property that a reasonable person under similar circumstances would believe is more likely than not stolen. Determination regarding whether or not an item is found to be stolen will not be used as a factor to determine whether a dealer has violated this subsection.

- B. Any violation of Chapter 7.70 is punishable, upon conviction, by a fine of not more than \$500.00 and a jail sentence of up to six months.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.130. Civil Penalties.

- A. The chief of police may assess civil penalties in an amount up to \$500.00 for each violation of Chapter 7.70.
- B. Procedure.
1. The chief of police having made a determination to seek civil penalties as provided by this section, shall give the dealer written notice of the determination.
 2. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested or by personal service by any sworn member of the Tigard Police Department.
 3. Mailing of the notice will be prima facie evidence of receipt of the notice.
 4. The civil penalty will be due 30 days from the date of the notice unless such civil penalty is appealed in accordance with Section 7.70.150.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.140. Revocation or Suspension of Secondhand Dealer License.

- A. Along with the other regulatory enforcement authority granted under this chapter, the chief of police may, after consulting with the city council, revoke or suspend any license issued pursuant to this chapter under the following conditions:
1. For any cause that would be grounds for denial of a permit;
 2. Upon finding that any violation of the provisions of this chapter, federal, state or other local law has been committed and the violation is connected with the operation of the permitted business location so that the person in charge of the business location knew, or should reasonably have known, that violations or offenses were permitted to occur at the location by the dealer or any principal or employee engaged or employed in the management or operation of the business location;
 3. A lawful inspection has been refused;
 4. If payment of civil penalties has not been received by the City of Tigard within 10 business days after the penalty becomes final; or
 5. If any statement contained in the application for the permit is false.
- B. The chief of police, upon revocation or suspension of any permit issued pursuant to this chapter, shall give the dealer written notice of the revocation or suspension.
1. Service of the notice will be accomplished by mailing the notice by regular and certified mail, return receipt requested.
 2. Mailing of the notice by regular mail will be prima facie evidence of receipt of the notice.

- C. Revocation will be effective and final 10 days after the giving of notice unless the revocation is appealed in accordance with Section 7.70.150.
- D. Suspension will be effective immediately upon the giving of notice, for the period of time set in the notice not to exceed 30 days.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.150. Appeals.

- A. Any dealer or person whose initial application or renewal application for a secondhand dealer license has been denied, or whose license has been revoked or suspended, or who has been directed to pay a civil penalty by the chief of police, may appeal the action of the chief of police to the civil infractions hearing officer in accordance with Chapter 1.17 of the Tigard Municipal Code.
- B. The filing of a notice of appeal of revocation or suspension of a license, or of a civil penalty imposed by the chief of police under this chapter, will stay the effective date of the action until the civil infractions hearing officer has issued an opinion.

(Ord. 09-07 §1; Ord. 14-11 §1)

§ 7.70.155. Administrative Policies and Procedures.

The chief of police may, by rule, implement the requirements and specifications of this chapter. Administrative policies and procedures stemming from this chapter, will be maintained by the Tigard Police Department and copies will be provided to all dealers.

(Ord. 09-07 §1; Ord. 14-11 §1)

CHAPTER 7.74 EMERGENCY OPERATIONS

§ 7.74.000. Emergency Management Code.

Pursuant to ORS 401.305, related to the emergency management powers of local governments, an emergency management agency for the City of Tigard is established. Subject to the appointment by the city manager, the emergency program manager has responsibility for the organization, administration, and operation of the emergency management agency during an emergency in accordance with the emergency management plan.

(Ord. 10-03 §1; Ord. 19-01 §1)

§ 7.74.010. Short Title.

Chapter 7.74 shall be known and may be cited as the "Emergency Management Code" and also may be referred to herein as "this chapter."

(Ord. 10-03 §1)

§ 7.74.020. Emergency Management Plan.

- A. The emergency management plan referred to herein consists of the emergency management plan, together with corresponding hazard-specific plans and resource and call lists. The plan sets out emergency procedures for the city to implement when responding to various types of significant emergencies. The plan is on file with the city recorder and also on the city's website.
- B. The plan may be changed or updated from time to time as follows: The city council has authority to adopt or amend Section 1, Administrative Overview, and Section 1a, Basic Plan, of the plan, as these sections serve as the policy direction for emergency operations. The emergency program manager has authority to amend other sections or documents associated with the plan.

(Ord. 10-03 §1; Ord. 19-01 §1)

§ 7.74.030. Agreements.

In accordance with the city's procurement procedures, the emergency program manager is authorized to negotiate, prepare, and recommend agreements between the city and public agencies or private parties in furtherance of the policies set forth in the plan. Emergency contracts may be entered into in accordance with Tigard's Public Contracting Rules Section 80.010.

(Ord. 10-03 §1; Ord. 19-01 §1)

§ 7.74.040. "Local Emergency" Defined.

- A. A "local emergency" exists whenever the city or an area impacting part of the city is suffering, or in imminent danger of suffering, an incident that may cause injury or death to persons, or damage to or destruction of property to the extent that extraordinary measures must be taken to protect life, property, or the environment.
- B. Such an incident may include, but not be limited to, the following: fire, explosion, flood, severe weather, landslide, drought, earthquake, volcanic activity, spills or releases of oil or

hazardous material as defined in ORS 466.605, contamination, utility or transportation emergencies, pandemic, disease, blight, infestation, civil disturbance, riot, sabotage, terrorist attack and war. The mayor, or the mayor's successor, has the authority to declare a local emergency subject to the provisions of Section 7.74.070.

(Ord. 10-03 §1; Ord. 19-01 §1)

§ 7.74.050. Adoption of the National Incident Management System.

The principles and policies of the National Incident Management System (NIMS) serve as the foundation for the city's incident command, coordination, and support activities.

- A. To the extent possible, the city will utilize the Incident Command System (ICS) of NIMS to manage major emergencies and disaster operations within its jurisdiction.
- B. City staff responsible for managing or supporting major emergency and disaster operations will be provided appropriate training on NIMS, ICS and its core components.

(Ord. 10-03 §1; Ord. 19-01 §1)

§ 7.74.060. Executive Responsibilities and Line of Succession.

Notwithstanding the following, the city manager is responsible for ensuring emergency management functions assigned under the plan are carried out.

- A. The mayor, or the mayor's designee, will administer the implementation of policies contained in the plan. If the mayor, for any reason, is unable or unavailable to perform the duties identified under this chapter, the duties will be performed in the following order of succession:
 1. Council president or council member.
 2. City manager or the assistant city manager.
 3. Police chief or the police chief's designee.
 4. Public works director or the public works director's designee.
- B. The powers of the successor to the mayor are limited to those granted under this chapter and the Charter. The duration of succession will be until such time as the mayor is able and available to perform his or her duties.

(Ord. 10-03 §1; Ord. 19-01 §1)

§ 7.74.070. Declaration and Ratification of a Local Emergency.

When the mayor, or the mayor's successor, determines that a local emergency exists, the mayor, or the mayor's successor, will make a declaration to that effect, and within 24 hours, call a special meeting of city council to ratify the declaration of emergency. City council's ratification of the declaration of emergency will be by ordinance or resolution.

- A. A declaration of local emergency can be made to:
 1. Implement specific temporary local measures which may be taken to protect life, property, or the environment.

2. Request assistance from the county or state, to include requesting a declaration of a "state of emergency" made by the governor.
 3. Request the governor ask for a presidential "declaration of a major disaster or emergency," which would initiate actions necessary for local governments and individuals to receive federal disaster assistance.
- B. The declaration by the mayor, or the mayor's successor, of a local emergency must state the following:
1. The nature of the emergency;
 2. Location or geographic area affected;
 3. Description of emergency conditions or threat;
 4. Description of damage or potential damage, if any; and
 5. Specific measures to be taken to protect lives and properties.
- C. If a declaration is made to request assistance, in addition to the statements required in subsection B of this section, the declaration must include:
1. Resources committed and actions initiated by the city to stabilize the situation;
 2. A statement requesting the governor consider the city an "emergency area," declare a state of emergency, and, if warranted, request a presidential declaration; and
 3. The type of assistance and resources required.
- D. In addition to the requirements of subsections B and C of this section, the ratification by the city council of a local emergency must:
1. State the duration of time for the declaration of the state of emergency; and
 2. Approve or modify specific emergency measures recommended by the mayor, or the mayor's successor, for the duration of the emergency period set forth in the declaration.
- E. The declaration of a local emergency, as ratified by city council, must limit the duration of the state of emergency to the period of time during which the conditions giving rise to the declaration exist or are likely to remain in existence.

(Ord. 10-03 §1; Ord. 19-01 §1)

§ 7.74.080. Declaration of Emergency—Authorized Procedures.

Whenever a local emergency has been declared to exist within the city, one or more of the following temporary emergency measures may be taken to protect life, property, or the environment:

- A. Establishment of a curfew for the area designated as an emergency area which fixes the hours during which all persons, other than officially recognized personnel, may be upon the public streets or other public places.
- B. Prohibition or limitation of the number of persons who may gather or congregate upon any

public street, public area, or any outdoor place within the area designated as an emergency area.

- C. Barricading of streets and other areas. Vehicular and pedestrian traffic may be prohibited or regulated on streets leading to areas designated as emergency areas for such distance as may be deemed necessary under the circumstances.
- D. Mandatory evacuation of persons when necessary for public safety or when necessary for the efficient conduct of activities that minimize or mitigate the effects of the emergency.
- E. Prohibit or restrict the sale of alcoholic beverages.
- F. Prohibit or restrict the sale of gasoline or other flammable liquids.
- G. Prohibit or restrict the sale, carrying or possession of any weapons or explosives of any kind on public streets, public places, or any outdoor place.
- H. Curtailment or suspension of commercial activity.
- I. Interruption or termination of water, gas, or electrical service.
- J. Redirection of city funds for emergency use and suspension of standard city procurement procedures.
- K. Other measures which are imminently necessary for the protection of life, property, or the environment, including entering into or upon private property to prevent or minimize danger to lives, property, or the environment.

(Ord. 10-03 §1; Ord. 19-01 §1)

§ 7.74.090. Violations—Penalties.

Knowing violation of an emergency regulation or order issued by city emergency personnel during periods of a declared emergency is a Class 1 civil infraction and may be prosecuted as set forth in Chapter 1.16 of the Tigard Municipal Code, except that, notwithstanding Section 1.16.640.A.1, the minimum fine upon conviction is not less than \$250.00 and not more than \$1,000.00 per offense. Each day of violation will be deemed a separate offense for purposes of imposition of penalty.

(Ord. 10-03 §1; Ord. 12-01 §2; Ord. 19-01 §1)

**CHAPTER 7.78
PROPERTY-FORFEITURE FOR CRIMINAL ACTIVITY**

§ 7.78.010. Title.

This chapter shall be known as the "Forfeiture Ordinance of the City of Tigard" and may be so pleaded and referred to.

(Ord. 87-60 §1)

§ 7.78.020. Definitions.

As used in this chapter, unless the context requires otherwise:

"Controlled substances" are those defined in ORS 475.005(6) [1985 ed.] except that this shall not include less than one avoirdupois ounce of marijuana.

"Deliver or delivery" is that defined in ORS 475.005(8) [1985 ed.]

"Facilitate" means that the property must have some substantial connection to, or be instrumental in, the commission of the underlying illegal activity which this chapter seeks to prevent.

"Gambling" is that defined in ORS 167.117(4) [1985 ed.]

"Illegal activity" means:

- (A) Gambling or promotion of gambling; or
- (B) The manufacture or delivery of controlled substances; or
- (C) The possession of controlled substances with the intent to distribute.

"Manufacture" is that defined in ORS 475.005(14) [1985 ed.]

"Marijuana" is that defined in ORS 475.005(15) [1985 ed.]

"Possession of controlled substances with the intent to distribute" is that defined in 21 USC 5841(a)(1) [1976 ed., published 1981].

"Production" is that defined in ORS 475.005(19) [1985 ed.]

"Promotion of gambling" is that defined in ORS 167.117(10) [1985 ed.]

(Ord. 87-60 §2)

§ 7.78.030. Forfeiture—Property Designated.

- (a) Any person who engages in illegal activity within the City of Tigard shall forfeit to the City of Tigard the following property, and no property right shall exist in it:
 - (1) All controlled substances which are intended for manufacture, delivery or distribution, or that have been manufactured, delivered or distributed;
 - (2) All raw materials, products, containers, equipment, books, records, research materials of any kind which are used, or are intended for use, to manufacture, compound, store, process, distribute or deliver any controlled substances;
 - (3) All conveyances, including aircraft, vehicles or vessels which are used to manufacture, deliver, or distribute in any manner to facilitate the manufacture,

delivery, or distribution of any controlled substance or any such conveyance which is used to transport or conceal any controlled substance;

- (4) All moneys, negotiable instruments, securities or other things of value furnished or exchanged or intended to be furnished or exchanged by or to any person to facilitate any illegal activity, and all proceeds and profits traceable to such furnishing, exchange or illegal activity;
- (5) All proceeds, profits and things of value excepting residential real property traceable to any illegal activity;
- (6) All equipment, materials or records of any sort that are used, or intended for use, to facilitate any illegal activity; and
- (7) All real property, other than residential property, which is used to manufacture any controlled substance, or used to facilitate the promotion of gambling as defined in ORS 167.127 [1985 ed.].

(b) This chapter shall not apply to those acts made unlawful by ORS 166.720.

(Ord. 87-60 §3)

§ 7.78.040. Seizure Process.

Any property subject to forfeiture to the City of Tigard under this chapter may be seized by any police officer on behalf of the City without issuance of court process when:

- (1) The seizure is incident to an arrest or search under a search warrant or an inspection under an administrative search; or
- (2) The property subject to seizure has been the subject of a prior judgment in favor of the City of Tigard in a forfeiture proceeding under this chapter; or
- (3) A police officer lawfully seizes the property under ORS 133.525 or 133.615 [1985 ed.] and has probable cause to believe that the property has been used or is intended for use in or to facilitate illegal activity.

(Ord. 87-60 §4)

§ 7.78.050. Legal Proceedings.

- (a) In the event of a seizure under this tear, the City Attorney, acting in the name of the City, may institute a forfeiture proceeding to obtain a judgment of forfeiture against the seized property.
- (b) The proceedings shall be instituted and conducted in accordance with the Oregon Rules of Civil Procedure and the Oregon Rules of Evidence relating to civil actions. Upon the filing of the complaint, the City Attorney shall initiate an application for a temporary restraining order restraining the return of the seized property to the defendant or other owner of the property. The defendant or owner of the property may demand a trial by jury in any civil action brought pursuant to this section.

(Ord. 87-60 §5)

§ 7.78.060. Disposition of Property.

- (a) Prior to obtaining any forfeiture judgment, any money, securities and negotiable instruments that are not retained by the Chief of Police for evidentiary purposes shall be deposited with the Financial Officer of the City of Tigard pending the outcome of the forfeiture proceedings. The Financial Officer is authorized to deposit or invest such property under the same conditions that apply to the deposit and investment of City funds.
- (b) Seized property other than money, securities and negotiable instruments shall be kept in the custody of the Chief of Police or his designee for safe keeping until judgment is rendered in the forfeiture action.
- (c) When a judgment of forfeiture is obtained under this chapter, the property shall be disposed of as follows:
 - (1) At the discretion of the Chief of Police, the forfeited property may be retained for official use in law enforcement activities. When the Chief of Police determines that such property will no longer be used for law enforcement purposes, it shall be sold in accordance with subdivisions (2) and (3) of this subsection.
 - (2) Property (except money, securities and negotiable instruments) which is not required by law to be destroyed and which is not harmful to the public shall be sold at a public auction by the Chief of Police.
 - A. All forfeiture proceeds obtained pursuant to ORS Chapter 475A shall be used only for purposes which are consistent with the provisions of ORS 475A.120, including but not limited to: the enforcement of laws relating to the unlawful delivery, distribution, manufacture or possession of controlled substances, including but not limited to use of the proceeds for controlled substance crime prevention, drug intervention, drug treatment and drug education programs.
 - (3) The proceeds of any sale, and any money, securities or negotiable instruments shall be used by the City of Tigard police for law enforcement purposes.

(Ord. 87-60 §6; Ord. 99-14)

§ 7.78.070. Nonconsensual Use of Property for Illegal Activity.

No property shall be forfeited under this chapter to the extent of the interest of an owner who did not consent to the use of the property in the illegal activity.

(Ord. 81-60 §7)

§ 7.78.080. Report to City Council.

The Chief of Police shall provide a report to the City Council whenever property is seized, forfeited or expended pursuant to this chapter.

(Ord. 87-60 §8, 1987)

**CHAPTER 7.80
PROHIBITED CAMPING**

§ 7.80.010. Definitions.

"Available shelter" means a shelter that has space for a person experiencing homelessness. A shelter is not available if the shelter:

1. Is at capacity and does not have space to accommodate the person experiencing homelessness;
2. Has a maximum stay rule or temporal requirement or deadline the person has exceeded or not met;
3. Has excluded the person from the shelter for any lawful reason;
4. Cannot reasonably accommodate the person's mental health or physical needs;
5. Is unavailable due to the person's family status, age, gender, gender identity, sexual orientation, or other status;
6. Is unavailable to the person because the shelter has rules about alcohol or drug use that the person does not meet;
7. May prohibit a minor child to be housed in the same facility with at least one parent or legal guardian;
8. Requires participation in religious activity or receipt of religious information or religious teaching the person does not wish to participate in or receive; or
9. Requires a person to leave their pet(s) unattended in order to stay at the shelter. This section does not apply to service animals under the Americans with Disabilities Act.

"Camp" means to set up or remain in or at a campsite for the purpose of establishing or maintaining a permanent or temporary place to live.

"Camp materials" may include, but are not limited to, tents, huts, awnings, lean-tos, chairs, tarps or tarpaulins, cots, beds, sleeping bags, blankets, mattresses, sleeping or bedding materials, food or food storage items, or similar items that are or appear to be used as living or sleeping accommodations, or to assist with living or sleeping activities.

"Campsite" means any place where the use of any tent, lean-to, shack, or other structure is placed, established, or maintained for the purpose of maintaining a permanent or temporary place to live and includes all camp materials.

"City park" means any parkland, public parkways, public squares, trails, greenways, playgrounds, and other recreation areas, whether publicly or privately owned, dedicated, leased, or otherwise set aside for public use and not under the supervision or control of any other public agency.

"Freeway" means a highway for through traffic where access to the highway is fully controlled except as may be allowed at designated interchanges and includes Interstate 5 and Highway 217.

"Person experiencing homelessness" means a person who lacks a fixed, regular, and adequate nighttime residence.

"Person without available shelter" means a person experiencing homelessness and who does not have access to available shelter.

"Property where homeless services are provided" means any property where regular, direct services to persons experiencing homelessness are provided or have been provided in that calendar year. Such services include, but are not limited to, service of food prepared on site or off site, showering or bathing, storage for personal property, case management, or laundry facilities.

"Right-of-way" means an area that allows for the passage of people, goods, or utilities. Right-of-way may include freeways, pedestrian connections, and streets. A right-of-way may be dedicated or deeded to the public for the public use or owned by the city or other public body.

"Shelter facility" means a building that provides, or has provided in that calendar year, emergency shelter on a temporary basis for individuals and families who lack permanent housing.

(Ord. 23-03 §1)

§ 7.80.020. Prohibited Camping.

It is unlawful for any person to camp in or upon any right-of-way or city park, unless specifically authorized by this chapter or by local emergency declaration.

(Ord. 23-03 §1)

§ 7.80.030. Time, Place, and Manner Regulations.

- A. A person without available shelter may camp only if all of the following time, place, and manner regulations are met.
 - B. Time Regulations. A person without available shelter may camp between the hours of 7 p.m. and 9 a.m. After 9 a.m., a person without available shelter must dismantle the campsite and remove all personal property and camp materials from the campsite.
 - C. Place Regulations. A person without available shelter may not camp in the following places at any time:
 1. Within any environmentally sensitive lands, as defined by the Tigard Community Development Code.
 2. Within any city parking lot.
 3. Within any city park.
 4. Within 500 feet from a shelter facility or a property where homeless services are provided.
 5. Within 500 feet from a public or private elementary school, secondary school, or career school attended primarily by minors.
 6. Within 500 feet from an egress or ingress to a freeway.
 7. Within any vision clearance area, as defined by Tigard Community Development Code Chapter 18.930.
 8. On SW Main Street, SW Burnham Street, SW Commercial Street, or SW Tigard Street between SW Main Street and SW Tiedeman Ave.

D. Manner Regulations. A person without available shelter may camp if the person without available shelter complies with all of the following manner regulations:

1. A campsite or camp materials may not obstruct that portion of the sidewalk, multi-use path or pedestrian path in a manner that results in less than 36 inches of unobstructed width for passage as required by the Americans with Disabilities Act.
2. A campsite or camp materials may not obstruct any portion of any street, bike lane, or bike path intended for travel for vehicle, bicycle, pedestrian or other legal mode of travel or impair unobstructed use thereof.
3. A campsite or camp materials may not create a physical impairment to pedestrian ingress and egress, including within 10 feet of driveways or 10 feet of entrances or exits from buildings.
4. A camp or camp materials may not create a physical impairment to emergency ingress or egress or emergency response including within 10 feet of any fire hydrant, utility pole, or other utility, fire gate/bollards, or public infrastructure used for emergency response.
5. A person without available shelter may not start or maintain any fire for the purpose of burning any combustible material in or around a campsite.
6. A person without available shelter may not accumulate, discard, or leave behind in or around a campsite: (a) any rubbish, trash, garbage, debris, or other refuse; (b) any unsanitary or hazardous materials; or (c) any animal or human urine or feces.
7. A person without available shelter may not erect, install, place, leave, or set up any type of permanent or temporary fixture or structure of any material or materials in or around a campsite. For purposes of this subsection, a "permanent or temporary fixture or structure" does not include a tent, tarpaulin, or other similar item used for shelter that is readily portable.
8. A person without available shelter may not dig, excavate, terrace soil, alter the ground or infrastructure, cause environmental damage, or damage vegetation or trees in or around the campsite.
9. A campsite must be limited within a spatial footprint of 12 feet by 12 feet, or 144 square feet, and a campsite may not be within 20 feet of another campsite. Multiple persons without alternative shelter may camp together in a single campsite, subject to the limitations of this subsection.
10. Unauthorized connections or taps to electrical or other utilities, or violations of building, fire, or other relevant codes or standards, are prohibited.
11. Obstruction or attachment of camp materials to public infrastructure or private property structures, including bridges or bridge infrastructure, fire hydrants, utility poles, streetlights, traffic signals, signs, fences, trees, vegetation, vehicles or buildings is prohibited.

(Ord. 23-03 §1; Ord. 23-07 §1)

§ 7.80.040. Violation.

- A. Violation of this chapter is punishable as follows:
 - 1. Class 3 civil infraction;
 - 2. Citation in lieu of arrest for criminal trespass in the second degree; or
 - 3. Arrest for criminal trespass in the second degree.
- B. A civil infraction or citation in lieu of arrest issued pursuant to Section 7.80.040(A)(1) or (2) may be accompanied by an order of exclusion for up to 60 days.
- C. An arrest for criminal trespass pursuant to Section 7.80.040(A)(3) may be accompanied by an order of exclusion for not more than 180 days.
- D. Nothing in this section is intended to prescribe any particular or order of violation or penalty. A police officer has discretion to impose a violation tailored to the circumstances and necessary to maintain the health and safety of persons experiencing homelessness and the community.

(Ord. 23-03 §1)

CHAPTER 7.82 **SMOKING**

§ 7.82.010. Policy of City Council.

The city council declares its intention to exercise general supervision, management and control of all city owned and operated property and to prevent and prohibit conduct that interferes with serving the public and to preserve the enjoyment, safety, comfort, and convenience of the public and city employees.

(Ord. 16-04 §1)

§ 7.82.020. Definitions.

As used in this chapter, unless the context requires otherwise:

"City" means the City of Tigard.

"Smoke" means to inhale, exhale, or possess any lighted or burning cigar, cigarette, pipe, weed, plant, or other substance grown, manufactured, or processed which is intended to be used for smoking in any form. "Smoke" also means to inhale, exhale, or possess an electronic cigarette or a similar device intended to emulate smoking.

"Smoking instrument" means any cigar, cigarette, pipe, electronic cigarette, or other smoking equipment.

(Ord. 16-04 §1)

§ 7.82.030. Prohibited Conduct.

No person shall smoke or carry any lighted smoking instrument on any city owned or operated property. This prohibition shall not extend to city rights-of-way.

(Ord. 16-04 §1)

§ 7.82.040. Penalty for Violation.

Failing to comply with this chapter shall be a violation. The civil penalty for violation of this chapter shall not exceed \$100 for the first violation, and shall not exceed \$500 for subsequent violations within 12 months of a previous violation of this chapter. Each violation of this chapter shall constitute a separate offense.

(Ord. 16-04 §1)

**CHAPTER 7.84
FIREWORK REGULATION**

§ 7.84.010. Definitions.

"Fireworks" has the meaning as defined in ORS 480.111.

"Person" means an individual or business entity.

"Red flag warning" means the warning issued by the National Weather Service indicating extreme fire danger as a result of conditions such as drought, high temperature, low humidity, high or erratic winds, and dry vegetation and fuel.

(Ord. 22-05 §1)

§ 7.84.020. Illegal Fireworks Prohibited.

- A. Unless authorized pursuant to ORS 480.120 to ORS 480.124, a person is prohibited from selling, keeping or offering for sale, exposing for sale, possessing, using, exploding, or having exploded any fireworks within the City of Tigard, or allowing such conduct to occur.
- B. A person commits the offense of allowing conduct under subsection A of this section if the person authorizes or permits such conduct to occur on real property that they own or control. A rebuttable presumption exists that the owner or tenant has authorized or permitted the conduct if the owner or tenant is present at the time of such conduct.
- C. Violation of this section is punishable by a presumptive fine of \$1,000, not to exceed \$1,500.

(Ord. 22-05 §1)

§ 7.84.030. Temporary Prohibitions During Extreme Fire Danger.

- A. During times in which the City of Tigard is subject to a red flag warning, no person may sell, or offer for sale, expose for sale, use, explode or have exploded any fireworks within the City of Tigard, or allow such conduct to occur.
- B. A person commits the offense of allowing conduct under subsection A of this section to occur if the person authorizes or permits such conduct. A rebuttable presumption exists that the person who owns or controls the real property on which the conduct occurs has authorized or permitted the conduct if that person is on the property at the time of such conduct.
- C. Subsection A does not apply to persons authorized by a permit from the State Fire Marshal pursuant to ORS 480.130.
- D. Violation of this section is punishable by a presumptive fine of \$1,000, not to exceed \$1,500.

(Ord. 22-05 §1)

URBAN FORESTRY

Title 8**URBAN FORESTRY**

DEFINITIONS, PENALTIES AND ADMINISTRATIVE RULES	Chapter 8.02	§ 8.08.040. Street Tree Maintenance. § 8.08.050. Street Tree Removal. § 8.08.060. Median Tree Planting. § 8.08.070. Median Tree Maintenance. § 8.08.080. Median Tree Removal.
§ 8.02.010. Purpose.		
§ 8.02.020. General Provisions.		
§ 8.02.030. Penalties for Urban Forestry Violations.	Chapter 8.10	
§ 8.02.040. Administrative Rules—Urban Forestry Manual.		TREES IN SENSITIVE LANDS
§ 8.02.050. Definitions of Specific Words.		§ 8.10.010. Purpose. § 8.10.020. General Provisions. § 8.10.030. Sensitive Lands Tree Maintenance. § 8.10.040. Sensitive Lands Tree Removal.
TREE PERMIT PROCEDURES	Chapter 8.04	
§ 8.04.010. Purpose.		
§ 8.04.020. City Manager Decision Making Procedures.		Chapter 8.12
§ 8.04.030. City Board or Committee Decision Making Procedures.		TREES THAT WERE REQUIRED WITH DEVELOPMENT
§ 8.04.040. Emergency Tree Permit Procedures.		§ 8.12.010. Purpose. § 8.12.020. General Provisions. § 8.12.030. Maintenance of Trees that Were Required With Development. § 8.12.040. Removal of Trees that Were Required With Development.
HAZARD TREES	Chapter 8.06	
§ 8.06.010. Purpose.		
§ 8.06.020. Hazard Trees Prohibited.		Chapter 8.14
§ 8.06.030. Hazard Tree Evaluation and Abatement Procedure.		TREES THAT WERE PLANTED USING THE URBAN FORESTRY FUND
§ 8.06.040. Emergency Abatement Procedure.		§ 8.14.010. Purpose. § 8.14.020. General Provisions. § 8.14.030. Maintenance of Trees that Were Planted Using the Urban Forestry Fund. § 8.14.040. Removal of Trees that Were Planted Using the Urban Forestry Fund.
STREET AND MEDIAN TREES	Chapter 8.08	
§ 8.08.010. Purpose.		
§ 8.08.020. General Provisions.		
§ 8.08.030. Street Tree Planting.		

	Chapter 8.16 HERITAGE TREES		
§ 8.16.010.	Purpose.	§ 8.16.050.	Nomination and Designation of Significant Trees.
§ 8.16.020.	General Provisions.	§ 8.16.060.	Incentives for Heritage Tree Designation.
§ 8.16.030.	Nomination and Designation of Heritage Trees.	§ 8.16.070.	Removal of Heritage Tree Designation.
§ 8.16.040.	Maintenance of Heritage Trees.	§ 8.16.080.	Removal of Significant Tree Designation.

**CHAPTER 8.02
DEFINITIONS, PENALTIES AND ADMINISTRATIVE RULES**

§ 8.02.010. Purpose.

The purpose of this chapter is to:

- A. Enable administrative rulemaking pursuant to Chapter 2.04 to adopt and amend urban forestry related administrative rules called the Urban Forestry Manual;
- B. Provide standard definitions of words for Title 8 of the Tigard Municipal Code and corresponding administrative rules in the Urban Forestry Manual;
- C. Provide general rules for reading and applying the language in this title and the Urban Forestry Manual; and
- D. Establish penalties for urban forestry violations.

(Ord. 12-11 §1)

§ 8.02.020. General Provisions.

- A. Reading and Applying the Code. When a conflict arises as a result of a particular tree situation spanning multiple chapters and administrative rules, the more restrictive provisions shall apply. When it cannot be determined which provisions are more restrictive, the more specific provisions shall apply.
- B. When tree planting, removal and/or replacement is approved through a Title 18 land use permit, no Title 8 tree permit is required.
- C. Defining Words. Words used in this title and the Urban Forestry Manual have their normal dictionary meaning unless they are listed in Section 8.02.050. Words listed in Section 8.02.050 have the specific meaning stated, unless the context clearly indicates another meaning.
- D. Standards for Tenses and Usage.
 - 1. Words in the singular include the plural. The reverse is also true.
 - 2. Words in the present tense include the future tense. The reverse is also true.
 - 3. The words "shall," "will" and "may not" are mandatory.
 - 4. "May" is permissive.
 - 5. "Prohibited" means that a particular activity is in violation of this title.
 - 6. When used with numbers, "At least x," "Up to x," "Not more than x" and "a maximum of x" all include x.
 - 7. Unless the context clearly indicates otherwise, the following conjunctions have the following meanings:
 - a. "And" indicates that all connected items or provisions apply;
 - b. "Either...or" indicates that the connected items or provisions apply singularly,

but not in combination.

8. Lists of items that state "including the following," "such as" or similar language are not limited to just those items. The lists are intended to provide examples, but not to be exhaustive of all possibilities.

(Ord. 12-11 §1)

§ 8.02.030. Penalties for Urban Forestry Violations.

- A. The following shall constitute urban forestry violations of this code:
 1. Noncompliance with the requirements of Title 8.
 2. Noncompliance with administrative rules in the Urban Forestry Manual that implement the requirements of Title 8.
 3. Noncompliance with the requirements of TCDC 18.420.
 4. Noncompliance with administrative rules in the Urban Forestry Manual that implement the requirements of TCDC 18.420.
- B. An urban forestry violation shall constitute a Class 1 civil infraction, which shall be processed according to procedures established in Chapter 1.16.
- C. Each urban forestry violation shall constitute a separate infraction, and each day that an urban forestry violation is committed or permitted to continue shall constitute a separate infraction.
- D. A finding of an urban forestry violation shall not relieve the responsible party of the duty to abate the violation. Penalties imposed by this chapter are in addition to and not in lieu of any remedies available to the city.
- E. Each urban forestry violation is subject to the penalty or administrative fee established in Chapter 1.16 of this code.
- F. The following specific urban forestry violations are associated with specific penalties in Section 1.16.640.A.3:
 1. Unlawful tree removal in violation of TMC Title 8, TCDC 18.420, or the Urban Forestry Manual;
 2. Damaging, moving or removing a tree protection fence in violation of TCDC 18.420 or administrative rules in the Urban Forestry Manual that implement the requirements of TCDC 18.420;
 3. Failure to provide inspection reports by the project arborist or landscape architect as required by TCDC 18.420.060.E.1 or administrative rules in the Urban Forestry Manual that implement the requirements of TCDC 18.420.
- G. In addition to the procedures of Chapter 1.16, any party found to be in violation of Section 8.08.050 (Street Tree Removal), 8.08.080 (Median Tree Removal), 8.10.040 (Sensitive Lands Tree Removal), 8.12.040 (Removal of Trees That Were Required with Development), 8.14.040 (Removal of Trees That Were Planted Using the Urban Forestry Fund) or 8.16.070 (Removal of Heritage Tree Designation) shall complete the process for

a retroactive city manager tree permit through the City Manager Decision Making Procedures detailed in Section 8.04.020.

- H. When any work is being done contrary to the provisions of this title or administrative rule that implements the provisions of this title, the city manager or designee may order the work corrected or stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and such persons shall forthwith make the necessary corrections or stop work until authorized by the city manager or designee to proceed with the work.

(Ord. 12-11 §1; Ord. 20-03 §§8, 9)

§ 8.02.040. Administrative Rules—Urban Forestry Manual.

The city manager is authorized to adopt and amend administrative rules to implement the technical details of the urban forestry related code provisions in Title 8, Title 18 and other applicable titles in the Tigard Municipal Code. These administrative rules shall be adopted pursuant to the provisions of Chapter 2.04, be consistent with Title 8, Title 18 and other applicable titles in the Tigard Municipal Code and be known collectively as the Urban Forestry Manual.

The Urban Forestry Manual shall include the following:

- A. Hazard tree evaluation and abatement procedures to ensure an objective and efficient process for identifying and resolving hazard tree issues.
- B. Tree planting, maintenance and removal standards for trees that require a permit to plant or remove by Title 8 or Title 18 so that approval criteria are clear, consistent and based on sound scientific principles.
- C. Urban forestry plan standards for development so that submittal requirements, measurements, calculations and other requirements are clearly outlined for:
 - 1. Tree preservation and removal site plans;
 - 2. Tree canopy site plans;
 - 3. Supplemental arborist or landscape architect reports;
 - 4. Tree canopy fee calculations; and
 - 5. Significant tree grove preservation considerations.
- D. Urban forestry plan implementation standards for development to ensure urban forestry plans are successfully implemented and trees are appropriately preserved, planted and inventoried as part of the development process.
- E. Street tree soil volume standards for development to ensure street trees are provided adequate soil volumes, and to ensure soil volume calculation, plan submittal and implementation requirements are clearly outlined.
- F. Parking lot tree canopy standards for development to ensure parking lot trees are appropriately planted and provided adequate soil volumes, and to ensure soil volume calculation, plan submittal and implementation requirements are clearly outlined.

(Ord. 12-11 §1)

§ 8.02.050. Definitions of Specific Words.

The definition of words with specific meaning in Title 8 and the Urban Forestry Manual are as follows:

"Caliper" means the tree care industry standard for measuring the trunk diameter of nursery stock. Caliper is the average diameter of the trunk of a nursery tree measured six inches above the ground for trunks less than or equal to an average of four inches in diameter (when measured six inches above ground). When the trunk of a nursery tree is greater than an average of four inches in diameter (when measured six inches above ground), caliper is the average diameter at 12 inches above ground (see Figure 8.02.1).

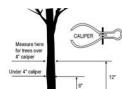


Figure 8.02.1 Caliper

"Certified arborist" means an individual certified by the International Society of Arboriculture as a certified arborist.

"Certified forester" means an individual certified by the Society of American Foresters as a certified forester.

"Covered soil volume" means a volume of soil that is under pavement and specially designed to support the growth of a tree. Covered soil volumes contain existing, new or amended soil with the physical, chemical and biological properties necessary to support the growth of a tree, while at the same time supporting the load-bearing requirements and engineering standards of the overlying pavement. Covered soil volumes would not be considered tree growth limiting by a project arborist or landscape architect in an urban forestry plan developed per the standards in Chapter 18.790 and corresponding administrative procedures.

"Development impact area" means the area on a site or right-of-way associated with a site affected by any and all site or right-of-way improvements, including, but not limited to, buildings, structures, walls, parking and loading areas, street improvements, paved and graveled areas, utilities, irrigation, equipment storage, construction parking and landscaping. The impact area also refers to areas of grading, filling, stockpiling, demolition, tree removal, trenching, boring and any other activities that require excavation or soil disturbance.

"Diameter at breast height (DBH)" means the average diameter of the trunk of a tree measured 4½ feet above mean ground level at the base of the trunk (see Figure 8.02.2). If the tree splits into multiple trunks above ground, but below 4½ feet, the DBH is the average diameter of the most narrow point beneath the split (see Figure 8.02.3). If the tree has excessive swelling at 4½ feet, the DBH is the average diameter of the most narrow point beneath the swelling. If the tree splits into multiple trunks at or directly below ground, it shall be considered one tree, and the DBH shall be the square root of the sum of the cross-sectional area of each trunk at 4½ feet above mean ground level multiplied by 1.1284 (see Figure 8.02.4).

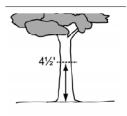


Figure 8.02.2
Standard DBH

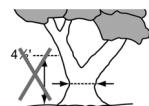


Figure 8.02.3
DBH for Split Trunk

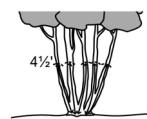


Figure 8.02.4
DBH for Multiple Trunks

"Dripline" means the outer limit of a tree canopy projected to the ground.

Hazard Tree Related Definitions.

1. "Claimant" means any person that believes in good faith there is a hazard tree on a property, can demonstrate that their life, limb or property has the potential to be impacted by said tree and seeks resolution through the Hazard Tree Evaluation and Abatement Procedure specified in the Urban Forestry Manual.
2. "Hazard tree" means any tree or tree part that has been or could be determined by an independent tree risk assessor to constitute a high level hazard requiring hazard tree abatement with an overall minimum risk rating of 8 for trees or tree parts up to four-inch DBH, 9 for trees or tree parts greater than four-inch and up to 20-inch DBH, or 10 for trees or tree parts greater than 20-inch DBH using the tree risk assessment methodology in Appendix 1 of the Urban Forestry Manual.
3. "Hazard tree abatement" means the process of reducing or eliminating a hazard to an overall risk rating of less than 8 for trees or tree parts up to four-inch DBH, 9 for trees or tree parts greater than four-inch and up to 20-inch DBH, or 10 for trees or tree parts greater than 20-inch DBH using the tree risk assessment methodology in Appendix 1 of the Urban Forestry Manual through pruning, tree removal, or other means in a manner that complies with all applicable rules and regulations.
4. "Hazard tree owner or responsible party" means the property owner or responsible party with the largest percentage of a hazard tree trunk immediately above the trunk flare or root buttresses. In cases where the hazard tree consists of a branch instead of an entire tree, the hazard tree owner or responsible party is the person who owns or is responsible for the property from where the branch originates. The hazard tree owner or responsible party:
 - a. Owns the hazard tree;
 - b. Is the entity or person acting as an agent for the owner of the hazard tree by agreement that has authority over the hazard tree, is responsible for the hazard tree's maintenance or management, or is responsible for hazard tree abatement;
 - c. Is any person occupying the property with the hazard tree, including bailee, lessee, tenant or other having possession; or
 - d. Is the person who is alleged to have committed the acts or omissions resulting in the hazard tree or allowed the hazard tree to exist on the property.
5. "Respondent" means any person that receives notice from a claimant seeking resolution through the Hazard Tree Evaluation and Abatement Procedure specified in the Urban Forestry Manual.

"Heritage tree" means any tree or stand of trees of landmark importance due to age, size, species, horticultural quality or historic importance that has been approved as a heritage tree by the Tigard City Council.

"Median tree" means any tree within the public right-of-way under City of Tigard jurisdiction between opposing lanes of vehicular traffic. Trees in the centers of cul-de-sacs and roundabouts within the public right-of-way under City of Tigard jurisdiction shall also be considered median trees.

"Nuisance tree" means any tree included on the Nuisance Tree List in the Urban Forestry Manual.

"Open grown tree" means any tree that has grown and established in an isolated manner without significant competition for light, space and nutrients from other trees. Open grown trees generally retain more foliage, develop greater trunk tapers, have more extensive root systems and are more resistant to windthrow than stand grown trees.

"Open soil volume" means an unpaved volume of soil, which contains existing, new or amended soil with the physical, chemical and biological properties necessary to support the growth of a tree.

"Parking lot tree" means any tree as defined by TCDC Section 18.30.020.T.5.o.

"Person" means an individual, corporation, governmental agency, official advisory committee of the City of Tigard, business trust, estate, trust, partnership, association or two or more people having a joint or common interest or any other legal entity.

"Significant tree" means any tree or stand of trees of landmark importance due to age, size, species, horticultural quality or historic importance that has been approved as a significant tree by the Tigard City Council or the designated city board or committee and which status has been accepted by the tree owner or responsible party.

"Significant tree grove" means a stand of trees that has been identified as significant through the Statewide Land Use Planning Goal 5 process. A Significant Tree Grove Map is maintained by the director of community development for the City of Tigard, or designee.

"Stand (of trees)" means a distinct area of stand grown trees, often predominantly native and with contiguous canopies, which form a visual and/or biological unit.

"Stand grown tree" means any tree that has grown and established in close association with other trees and, as a result, has experienced significant competition for light, space and nutrients from other trees. Stand grown trees generally retain less foliage, develop less trunk taper, have less extensive root systems and are less resistant to windthrow than open grown trees.

"Street tree" means any tree equal to or greater than 1½-inch caliper or DBH within a public right-of-way under City of Tigard jurisdiction or easement for public access under City of Tigard jurisdiction, or any tree equal to or greater than 1½-inch caliper or DBH outside of a public right-of-way or easement for public access that the city can demonstrate was planted or preserved as a street tree to meet the requirements for a city permit or project. Median trees shall not be considered street trees.

"Thinning" means a tree removal practice that reduces tree density and competition between trees in a stand. Thinning concentrates growth on fewer, high-quality trees and generally enhances tree health.

"Tree" means a woody perennial plant, often with one dominant trunk, the capacity to achieve a

mature height greater than 16 feet and primarily referred to as a tree in scientific literature.

"Tree canopy" means the area above ground which is covered by the trunk, branches and foliage of a tree or group of trees' crowns.

"Tree canopy cover, effective" means a formula detailed in TCDC Chapter 18.420 and corresponding administrative procedures used to calculate the amount of tree canopy that will be provided for a given lot or tract through any combination of preserving existing trees and planting new trees. In general, the formula grants bonus tree canopy credit based on the existing tree canopy of trees that are preserved, and grants additional tree canopy credit based on the projected mature tree canopy of newly planted trees.

"Tree care industry standards" means generally accepted industry standards for tree care practices detailed in the most current version of the American National Standards Institute (ANSI) A300 Standards for Tree Care Operations. In addition, tree care industry standards shall include adherence to all applicable rules and regulations for the completion of any tree care operation.

"Tree removal" means the cutting or removing of 50% or more of a crown, trunk or root system of a tree, or any action which results in the loss of aesthetic or physiological viability or causes the tree to fall or be in immediate danger of falling.

"Tree risk assessor" means an individual deemed qualified by the International Society of Arboriculture to conduct tree risk assessments.

"Understory tree" means any tree that is adapted to grow and complete its lifecycle within the shade and beneath the canopy of another tree.

(Ord. 12-11 §1; Ord. 20-03 §10)

CHAPTER 8.04 TREE PERMIT PROCEDURES

§ 8.04.010. Purpose.

The purpose of this chapter is to create a flexible framework for tree permit decisions to address both simple and complex situations. The City Manager Decision Making Procedures are implemented administratively by city staff without public review for approving tree permits in situations where the reasons and criteria for tree planting, removal and/or replacement are simple. The City Board or Committee Decision Making Procedures are implemented through a public review process by a designated board or commission in situations where the reasons and criteria for tree removal and/or replacement are complex.

(Ord. 12-11 §1)

§ 8.04.020. City Manager Decision Making Procedures.

- A. City manager tree permit applications shall be made on forms provided by the city manager or designee.
- B. City manager tree permit applications shall:
 1. Include the information requested on the application form;
 2. Address all of the relevant approval criteria in the Urban Forestry Manual in sufficient detail for review and action; and
 3. Be accompanied by the required fee.
- C. The city manager's or designee's decision shall address all of the relevant approval criteria in the Urban Forestry Manual. The city manager or designee shall approve, approve with conditions or deny the requested tree permit in writing based on the relevant approval criteria in the Urban Forestry Manual.
- D. The city manager's or designee's decision shall be final and valid for a period of up to one year after issuance unless a longer timeframe is conditioned as part of the tree permit decision. However, nothing shall prevent a person from submitting another application for a city manager tree permit if the conditions and circumstances of an unexpired city manager tree permit have changed.

(Ord. 12-11 §1)

§ 8.04.030. City Board or Committee Decision Making Procedures.

- A. The city manager or designee shall authorize a city board or committee to issue discretionary decisions pertaining to tree permits.
- B. The designated city board or committee shall be authorized to use their discretion when issuing their decision on tree permits and include but not be limited to the following considerations:
 1. Solar access;
 2. Views;

3. Quality of tree species, condition and location;
 4. Contribution to the environment;
 5. Contribution to the community; and
 6. Aesthetics.
- C. The City Board or Committee Decision Making Procedures will be consistent with the procedures in TCDC 18.710.080. The review body will be the city board or committee so designated by the City Manager or designee.
- D. Decisions made according to the City Board or Committee Decisions Making Procedures shall be final and valid for a period of up to one year unless:
1. A longer timeframe is conditioned as part of the tree permit decision; or
 2. A subsequent decision is issued through the City Manager Decision Making Procedures in Section 8.04.020 that conflicts with an unexpired city board or committee tree permit.

(Ord. 12-11 §1; Ord. 20-03 §11; Ord. 22-06 §2)

§ 8.04.040. Emergency Tree Permit Procedures.

If an emergency exists because a tree presents such a clear and present danger to people, structures, infrastructure or utilities that there is insufficient time to obtain a permit, any person may remove the subject tree without first having obtained a permit. The person shall, within 14 calendar days after having removed such tree, submit a retroactive application for a city manager tree permit through the City Manager Decision Making Procedures detailed in Section 8.04.020. Applicants are encouraged to take photographs of the subject tree and obtain written documentation from a certified arborist prior to the removal. If the city manager or designee determines that there was no emergency, he/she shall pursue enforcement action through Chapter 1.16.

(Ord. 12-11 §1)

CHAPTER 8.06 HAZARD TREES

§ 8.06.010. Purpose.

The purpose of this chapter is to protect the health, safety and welfare of people within the City of Tigard by establishing standards and procedures for the identification, evaluation and abatement of hazard trees.

(Ord. 12-11 §1)

§ 8.06.020. Hazard Trees Prohibited.

- A. Hazard trees that are verified through the Hazard Tree Evaluation and Abatement Procedure in Section 1 of the Urban Forestry Manual are prohibited within the City of Tigard.
- B. Any hazard tree owner or responsible party identified through the Hazard Tree Evaluation and Abatement Procedure in Section 1 of the Urban Forestry Manual shall be required to complete hazard tree abatement.
- C. Failure of a hazard tree owner or responsible party identified through the Hazard Tree Evaluation and Abatement Procedure in Section 1 of the Urban Forestry Manual to complete hazard tree abatement is a nuisance under Chapter 6.02 and subject to penalties under Chapter 1.16.

(Ord. 12-11 §1)

§ 8.06.030. Hazard Tree Evaluation and Abatement Procedure.

- A. Any claimant may seek resolution through the Hazard Tree Evaluation and Abatement Procedure specified in the Urban Forestry Manual.
- B. Once initiated by the claimant, both the claimant and respondent have an obligation to complete the Hazard Tree Evaluation and Abatement Procedure specified in the Urban Forestry Manual. Failure of the claimant or respondent to perform their obligations specified in the Hazard Tree Evaluation and Abatement Procedure constitutes a violation of this code by the negligent party.

(Ord. 12-11 §1)

§ 8.06.040. Emergency Abatement Procedure.

If the city has reason to believe a hazard tree poses an immediate danger and there is not enough time to complete the Hazard Tree Evaluation and Abatement Procedure in the Urban Forestry Manual, the city may choose to take immediate remedial action as defined in Section 1.16.150 of the Tigard Municipal Code.

(Ord. 12-11 §1)

CHAPTER 8.08 STREET AND MEDIAN TREES

§ 8.08.010. Purpose.

The purpose of this chapter is to provide standards and procedures for the planting, maintenance and removal of street and median trees in order to maximize their environmental, aesthetic, social and economic benefits.

(Ord. 12-11 §1)

§ 8.08.020. General Provisions.

- A. It shall be the duty of owners of lots or portions of lots immediately abutting on, fronting on, adjacent to or owning the largest percentage of any street tree trunk immediately above the trunk flare or root buttresses to maintain and remove street trees in accordance with the provisions of this chapter. No person, except as specified in subsection C of this section, shall plant a street tree on any lot, or within the public right-of-way immediately abutting on, fronting on or adjacent to any lot, without the responsible property owner's permission.
- B. It shall be the duty of the city to plant, maintain and remove median trees in accordance with the provisions of this chapter.
- C. The city may, at any time, exercise its authority over the public right-of-way by planting, maintaining or removing any street tree or tree part within a public right-of-way in accordance with the provisions of this chapter. Any action taken by the city in accordance with this subsection shall not absolve property owners from their ongoing responsibility for street trees pursuant to subsection A of this section.

(Ord. 12-11 §1)

§ 8.08.030. Street Tree Planting.

No person shall plant a street tree without prior written approval obtained through the City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in the Street Tree Planting Standards in the Urban Forestry Manual.

(Ord. 12-11 §1)

§ 8.08.040. Street Tree Maintenance.

- A. All street trees shall be maintained in a manner consistent with the Street Tree Maintenance Standards specified in the Urban Forestry Manual.
- B. If any street tree subject to the provisions of this chapter dies within three years after planting, it shall be removed and replaced in accordance with the previous permit approval. The street tree removal provisions (Section 8.08.050 of this chapter) shall not apply to tree removal and replacement in accordance with this subsection.

(Ord. 12-11 §1)

§ 8.08.050. Street Tree Removal.

Except as exempted by Section 8.08.040.B, no person shall remove a street tree without prior written approval obtained either through:

- A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in the Street Tree Removal Standards in the Urban Forestry Manual; or
- B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.
(Ord. 12-11 §1)

§ 8.08.060. Median Tree Planting.

No person shall plant a median tree without prior written approval obtained through the City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in the Median Tree Planting Standards in the Urban Forestry Manual.

(Ord. 12-11 §1)

§ 8.08.070. Median Tree Maintenance.

- A. All median trees shall be maintained in a manner consistent with the Median Tree Maintenance Standards specified in the Urban Forestry Manual.
- B. If any median tree subject to the provisions of this chapter dies within three years after planting, it shall be removed and replaced in accordance with the previous permit approval. The median tree removal provisions (Section 8.08.080 below) shall not apply to tree removal and replacement in accordance with this subsection.

(Ord. 12-11 §1)

§ 8.08.080. Median Tree Removal.

Except as exempted by Section 8.08.070.B, no person shall remove a median tree without prior written approval obtained either through:

- A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in the Median Tree Removal Standards in the Urban Forestry Manual; or
- B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.
(Ord. 12-11 §1)

CHAPTER 8.10 TREES IN SENSITIVE LANDS

§ 8.10.010. Purpose.

The purpose of this chapter is to establish standards and procedures for the maintenance, removal and replacement of native trees in sensitive lands for their contribution to the functions and values of sensitive lands.

(Ord. 12-11 §1)

§ 8.10.020. General Provisions.

- A. The provisions of this chapter are applicable within sensitive lands under City of Tigard jurisdiction described in Section 18.775.010.G of the Tigard Municipal Code. A map of sensitive lands is maintained by the city and is accessible to the public.
- B. The city manager or designee shall utilize the map of sensitive lands to determine whether a particular tree is within sensitive lands. In order for the city manager or designee to reconsider his or her determination, a person shall provide a delineation by a professional land surveyor conducted in accordance with all applicable agency accepted methods for the sensitive lands type in question.
- C. Only those native trees listed on the native tree list in the Urban Forestry Manual are subject to the provisions of this chapter.

(Ord. 12-11 §1)

§ 8.10.030. Sensitive Lands Tree Maintenance.

- A. Native trees greater than or equal to six-inch DBH and native trees that were required to be planted as replacement trees by the provisions of this chapter shall be maintained in a manner consistent with tree care industry standards and shall be maintained so as not to become hazard trees as defined in Chapter 8.02 of the Tigard Municipal Code.
- B. If any native tree subject to the provisions of this chapter dies within three years after planting, it shall be removed and replaced in accordance with the previous permit approval. The sensitive lands tree removal provisions (Section 8.10.040 below) shall not apply to tree removal and replacement in accordance with this subsection.

(Ord. 12-11 §1)

§ 8.10.040. Sensitive Lands Tree Removal.

Except as exempted by Section 8.10.030.B, no person shall remove any native tree greater than or equal to six-inch DBH, or any native tree less than six-inch DBH that was required to be planted as a replacement tree by the provisions of this chapter, without prior written approval obtained either through:

- A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in the Sensitive Lands Tree Removal Standards in the Urban Forestry Manual; or
- B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.

(Ord. 12-11 §1)

CHAPTER 8.12 TREES THAT WERE REQUIRED WITH DEVELOPMENT

§ 8.12.010. Purpose.

The purpose of this chapter is to establish standards and procedures for the maintenance, removal and replacement of trees that were required with high density residential and nonresidential development to maintain their environmental, aesthetic, social and economic benefits after the development process is complete.

(Ord. 12-11 §1)

§ 8.12.020. General Provisions.

- A. The provisions of this chapter do not apply to residential developments in the RES-A, RES-B, RES-C, and RES-D zones.
- B. The provisions of this chapter do apply when there is substantial evidence that one of the following situations exists:
 1. Except for those developments listed in subsection A of this section, trees were planted or preserved under a requirement found in Title 18 or found in a land use permit; and
 2. Trees were required as replacements for trees originally required under subsection B.1 of this section.
- C. The city manager or designee shall utilize all available land use permit records and data when determining whether a tree is subject to the provisions of this chapter.

(Ord. 12-11 §1; Ord. 22-06 §2)

§ 8.12.030. Maintenance of Trees that Were Required With Development.

- A. Trees subject to the provisions of this chapter and trees that were required to be planted as replacement trees by the provisions of this chapter shall be maintained in a manner consistent with tree care industry standards and shall be maintained so as not to become hazard trees as defined in Chapter 8.02 of the Tigard Municipal Code.
- B. If any tree subject to the provisions of this chapter dies within three years after planting, it shall be removed and replaced in accordance with the previous permit approval. The removal of trees that were required with development provisions (Section 8.12.040 of this chapter) shall not apply to tree removal and replacement in accordance with this subsection.

(Ord. 12-11 §1)

§ 8.12.040. Removal of Trees that Were Required With Development.

Except as exempted by Section 8.12.030.B of this chapter, no person shall remove any tree subject to the provisions of this chapter without prior written approval obtained either through:

- A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in the Development Tree Removal Standards in the Urban Forestry Manual; or
- B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.

(Ord. 12-11 §1)

**CHAPTER 8.14
TREES THAT WERE PLANTED USING THE URBAN FORESTRY FUND**

§ 8.14.010. Purpose.

The purpose of this chapter is to establish standards and procedures for the maintenance, removal and replacement of trees that were planted using the Urban Forestry Fund:

- A. To maintain the environmental, aesthetic, social and economic benefits provided by trees;
- B. To replace trees that were removed with past development; and
- C. To ensure public funds for tree planting are invested wisely by requiring ongoing maintenance and replacement as a condition of expenditure.

(Ord. 12-11 §1)

§ 8.14.020. General Provisions.

- A. The provisions of this chapter do not apply unless there is substantial evidence that one of the following situations exists:
 - 1. Trees were planted using the Urban Forestry Fund Number 260 after March 1, 2013; and
 - 2. Trees were required as replacements for trees in subsection A.1 of this section.
- B. Determination of Applicability or Exemption. The city manager or designee shall utilize all available records and data when determining whether a tree is subject to the provisions of this chapter.

(Ord. 12-11 §1)

§ 8.14.030. Maintenance of Trees that Were Planted Using the Urban Forestry Fund.

- A. Trees subject to the provisions of this chapter and trees that were required to be planted as replacement trees by the provisions of this chapter shall be maintained in a manner consistent with tree care industry standards and shall be maintained so as not to become hazard trees as defined in Chapter 8.02 of the Tigard Municipal Code.
- B. If any tree subject to the provisions of this chapter dies within three years after planting, it shall be removed and replaced in accordance with the previous permit approval. The removal of trees that were planted using the Urban Forestry Fund provisions (Section 8.14.040 of this chapter) shall not apply to tree removal and replacement in accordance with this subsection.

(Ord. 12-11 §1)

§ 8.14.040. Removal of Trees that Were Planted Using the Urban Forestry Fund.

Except as exempted by Section 8.14.030.B of this chapter, no person shall remove any tree subject to the provisions of this chapter without prior written approval obtained either through:

- A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in the Urban Forestry Fund Tree Removal Standards in the Urban Forestry Manual; or

B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.
(Ord. 12-11 §1)

CHAPTER 8.16 HERITAGE TREES

§ 8.16.010. Purpose.

The purpose of this chapter is to recognize, appreciate and provide for voluntary protection of trees that are of landmark importance due to age, size, species, horticultural quality or historic importance.

(Ord. 12-11 §1)

§ 8.16.020. General Provisions.

- A. The city manager or designee shall authorize a city board or committee to implement the provisions of this chapter.
- B. Heritage trees and significant trees may be of equivalent landmark importance due to age, size, species, horticultural quality or historic importance. The designated review body may approve designation as a significant tree for a tree nominated as a heritage tree if the review body determines the tree is of lesser landmark importance, but still worthy of recognition. Alternatively, a tree owner or responsible party may choose to nominate a tree as a significant tree rather than a heritage tree if they determine the tree is of lesser landmark importance, but still worthy of recognition, or if they desire no regulatory protection of the tree they would like to have recognized.

(Ord. 12-11 §1)

§ 8.16.030. Nomination and Designation of Heritage Trees.

- A. Any person may nominate a particular tree or group of trees to be designated as a heritage tree due to age, size, species, horticultural quality or historic importance. The nomination shall be submitted by the tree owner or responsible party or accompanied by the tree owner or responsible party's written consent. If the nominated tree is located on city property, the nomination shall be submitted by the city manager or designee or be accompanied by the city manager's or designee's written consent. Upon completion of the nomination process, the remaining portions of this subsection shall apply in the order listed.
- B. After reviewing the nomination materials, and any supplemental information provided by the city manager or designee, the designated city board or committee may decide by majority vote to:
 1. Recommend approval of the tree to be designated as a heritage tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance, and forward their recommendation to the City Council.
 2. Approve the tree to be designated as a significant tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance. Upon receipt of the tree owner's or responsible party's written consent for designation as a significant tree, the tree shall be included in a publicly accessible inventory of trees.
 3. Deny the tree as a heritage tree and significant tree.
- C. When the designated city board or committee recommends that council designate a tree as

a heritage tree, the city manager or designee shall prepare for the tree owner or responsible party the paperwork necessary to record the heritage tree designation on the owner's or responsible party's deed, noting on such deed that the tree is subject to the provisions of this chapter. If the tree owner or responsible party fails to sign the necessary paperwork, the heritage tree designation shall be void, the matter shall not move forward to council, and the provisions of this chapter shall cease to apply to the tree.

- D. After reviewing the nomination materials, any supplemental information provided by the city manager or designee, and the designated city board or committee's recommendation, the City Council may decide by majority vote to:

1. Approve the tree to be designated as a heritage tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance, at which point the city shall execute the necessary paperwork to record the heritage tree designation on the tree owner's or responsible party's deed, noting on such deed that the tree is subject to the provisions of this chapter. In addition, the tree shall be included in a publicly accessible inventory of trees.
2. Approve the tree to be designated as a significant tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance. Upon receipt of the tree owner's or responsible party's written consent for designation as a significant tree, the tree shall be included in a publicly accessible inventory of trees.
3. Deny the tree as a heritage tree and significant tree.

(Ord. 12-11 §1)

§ 8.16.040. Maintenance of Heritage Trees.

Heritage trees shall be maintained in a manner consistent with tree care industry standards and shall be maintained so as not to become hazard trees as defined in Chapter 8.02 of the Tigard Municipal Code.

(Ord. 12-11 §1)

§ 8.16.050. Nomination and Designation of Significant Trees.

- A. Any person may nominate a particular tree or group of trees to be designated as a significant tree due to age, size, species, horticultural quality or historic importance. The nomination shall be submitted by the tree owner or responsible party or accompanied by the tree owner or responsible party's written consent. If the nominated tree is located on city property, the nomination shall be submitted by the city manager or designee or be accompanied by the city manager's or designee's written consent. Upon completion of the nomination process, the remaining portions of this subsection shall apply.
- B. After reviewing the nomination materials, and any supplemental information provided by the city manager or designee, the designated city board or committee may decide by majority vote to:
1. Approve the tree to be designated as a significant tree upon finding it is of landmark importance due to age, size, species, horticultural quality or historic importance. The tree shall be included in a publicly accessible inventory of trees.

2. Deny the tree as a significant tree.
(Ord. 12-11 §1)

§ 8.16.060. Incentives for Heritage Tree Designation.

Designated heritage trees shall be eligible for the following incentives subject to availability of city funding and city approval:

- A. Plaques which may be placed on or near heritage trees; and
- B. Maintenance of heritage trees including, but not limited to:
 1. Pruning,
 2. Pest control,
 3. Unwanted planted removal,
 4. Fertilization,
 5. Soil amendment, and
 6. Cabling and bracing.

(Ord. 12-11 §1)

§ 8.16.070. Removal of Heritage Tree Designation.

Heritage trees and heritage tree designations shall not be removed, without prior written approval obtained either through:

- A. The City Manager Decision Making Procedures detailed in Section 8.04.020 using the approval criteria in the Heritage Tree Designation Removal Standards in the Urban Forestry Manual; or
- B. The City Board or Committee Decision Making Procedures detailed in Section 8.04.030.

(Ord. 12-11 §1)

§ 8.16.080. Removal of Significant Tree Designation.

- A. Significant tree designation shall be removed when requested in writing by the tree owner or responsible party.
- B. The tree owner or responsible party shall notify the city in writing of the removal of any significant tree.

(Ord. 12-11 §1)

Title 9

AREAS OF SPECIAL FLOOD HAZARD

Chapter 9.10	§ 9.10.040.	General Provisions.
AREAS OF SPECIAL FLOOD HAZARD	§ 9.10.050.	National Flood Insurance Program General Standards.
§ 9.10.010. Purpose.		
§ 9.10.020. Definitions.	§ 9.10.060.	Violations.
§ 9.10.030. Applicability.		

**CHAPTER 9.10
AREAS OF SPECIAL FLOOD HAZARD**

§ 9.10.010. Purpose.

The purpose of this chapter is to promote public health, safety, and general welfare, and to minimize public and private losses due to flooding in flood hazard areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money for costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- D. Minimize prolonged business interruptions;
- E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in areas of special flood hazard;
- F. Help maintain a stable tax base by providing for the sound use and development of flood hazard areas so as to minimize blight areas caused by flooding;
- G. Notify potential buyers that the property is in an area of special flood hazard;
- H. Notify those who occupy areas of special flood hazard that they assume responsibility for their actions; and
- I. Participate in and maintain eligibility for flood insurance and disaster relief.

(Ord. 23-09, 12/12/2023)

§ 9.10.020. Definitions.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage. These definitions are only applicable to this chapter and Tigard Community Development Code (TCDC) Chapter 18.510, Sensitive Lands.

"Appeal" means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

"Area of shallow flooding" means a designated Zone AO, AH, AR/AO or AR/AH (or VO) on the city's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" means the land in the floodplain within the city subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard."

"Base flood" means a flood having a one percent chance of being equaled or exceeded in any given year.

"Base flood elevation (BFE)" means the elevation to which floodwater is anticipated to rise during the base flood.

"Basement" means any area of the building having its floor subgrade (below ground level) on all sides.

"Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to, schools; nursing homes; new and replacement bridges; hospitals; police, fire, and emergency response installations; and installations that produce, use, or store hazardous materials or hazardous waste.

"Development" means any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

"Flood" or "flooding" means:

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - a. The overflow of inland or tidal waters;
 - b. The unusual and rapid accumulation or runoff of surface waters from any source;
 - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection 1.b of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in subsection 1.a of this definition.

Flood Elevation Study. See "Flood Insurance Study."

"Flood Insurance Rate Map (FIRM)" means the official map of the city, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the city. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

"Flood Insurance Study (FIS)" means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) or flood-related erosion hazards.

"Flood proofing" means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot. Also referred to as "regulatory floodway."

"Functionally dependent use" means a use which cannot perform its intended purpose unless it

is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

"Historic structure" means any structure that is:

1. Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a City of Tigard Historic Resources list acknowledged by the Secretary of the Interior.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

"Manufactured dwelling" means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured dwelling" does not include a "recreational vehicle" and is synonymous with "manufactured home."

"Manufactured dwelling park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured dwelling lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on the city's Flood Insurance Rate Map are referenced.

"New construction" means, for floodplain management purposes, structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by City of Tigard and includes any subsequent improvements to such structures.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Special Flood Hazard Area. See "Area of special flood hazard" for this definition.

"Start of construction" includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured dwelling on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured dwelling.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50% of the market value of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

"Violation" means the failure of a structure or other development to be fully compliant with the city's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this chapter is presumed to be in violation until such time as that documentation is provided.

(Ord. 23-09, 12/12/2023)

§ 9.10.030. Applicability.

- A. All development within areas of special flood hazard is subject to the terms of this chapter and is required to comply with its provisions and all other applicable regulations including, but not limited to, TCDC Chapter 18.510, Sensitive Lands.
- B. The areas of special flood hazard identified by FEMA in a scientific and engineering report entitled "The Flood Insurance Study for Washington County, Oregon and Incorporated Areas effective October 19, 2018" with accompanying Flood Insurance Map (FIRM

Panels: 41067C0529F, 41067C0533E, 41067C0534E, 41067C0541E through 41067C0544E, and 41067C0563E) is hereby adopted by reference and declared to be a part of this chapter.

(Ord. 23-09, 12/12/2023)

§ 9.10.040. General Provisions.

- A. Coordination with State of Oregon Specialty Codes. Pursuant to the requirement established in ORS 455 that the City of Tigard administers and enforces the State of Oregon Specialty Codes, the City of Tigard does hereby acknowledge that the Oregon Specialty Codes contain certain provisions that apply to the design and construction of buildings and structures located in areas of special flood hazard. Therefore, this chapter is intended to be administered and enforced in conjunction with the Oregon Specialty Codes.
- B. Warning. The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages.
- C. Permit Review. The duties of the Floodplain Administrator, or their designee, shall include, but not be limited to, review all development permits to determine that:
 1. The permit requirements of this ordinance have been satisfied;
 2. All other required local, state, and federal permits have been obtained and approved;
 3. Review all development permits to determine if the proposed development is located in a floodway. If located in the floodway assure that the floodway provisions are met;
 4. Review all development permits to determine if the proposed development is located in an area where base flood elevation data is available either through the Flood Insurance Study or from another authoritative source. If base flood elevation data is not available then ensure compliance with the provisions of Section 9.10.050.J;
 5. Provide to building officials the base flood elevation applicable to any building requiring a development permit;
 6. Review all development permit applications to determine if the proposed development qualifies as a substantial improvement as defined by Section 9.10.020;
 7. Review all development permits to determine if the proposed development activity is a watercourse alteration. If a watercourse alteration is proposed, ensure compliance with the provisions in Section 9.10.050.C; and
 8. Review all development permits to determine if the proposed development activity includes the placement of fill or excavation.
- D. Information to be Obtained and Maintained. The following information shall be obtained and maintained and shall be made available for public inspection as needed:
 1. Obtain, record, and maintain the actual elevation (in relation to mean sea level) of the lowest floor (including basements) and all attendant utilities of all new or

substantially improved structures where base flood elevation data is provided through the Flood Insurance Study, Flood Insurance Rate Map, or obtained in accordance with Section 9.10.050.J.

2. Obtain and record the elevation (in relation to mean sea level) of the natural grade of the building site for a structure prior to the start of construction and the placement of any fill and ensure that the requirements of Section 9.10.050.N are adhered to and all other required local, state, and federal permits have been obtained and approved.
 3. Upon placement of the lowest floor of a structure (including basement) but prior to further vertical construction, obtain documentation, prepared and sealed by a professional licensed surveyor or engineer, certifying the elevation (in relation to mean sea level) of the lowest floor (including basement).
 4. Where base flood elevation data are utilized, obtain record drawing certification of the elevation (in relation to mean sea level) of the lowest floor (including basement) prepared and sealed by a professional licensed surveyor or engineer, prior to the final inspection.
 5. Maintain all elevation certificates submitted to the City of Tigard.
 6. Obtain, record, and maintain the elevation (in relation to mean sea level) to which the structure and all attendant utilities were floodproofed for all new or substantially improved floodproofed structures where allowed under this chapter and where base flood elevation data is provided through the FIS, FIRM, or obtained in accordance with Section 9.10.050.J.
 7. Maintain all floodproofing certificates required under this chapter.
 8. Record and maintain all variance actions, including justification for their issuance.
 9. Obtain and maintain all hydrologic and hydraulic analyses performed as required under Section 9.10.050.N.
 10. Record and maintain all substantial improvement and substantial damage calculations and determinations as required under subsection H.
 11. Maintain for public inspection all records pertaining to the provisions of this chapter.
- E. City Boundary Alterations. The Floodplain Administrator shall notify the Federal Insurance Administrator in writing whenever the boundaries of the city have been modified by annexation or the city has otherwise assumed authority or no longer has authority to adopt and enforce floodplain management regulations for a particular area, to ensure that all Flood Hazard Boundary Maps and Flood Insurance Rate Maps accurately represent the city's boundaries. The notification will include a copy of a map of the city suitable for reproduction, clearly delineating the new corporate limits or new area for which the city has assumed or relinquished floodplain management regulatory authority.
- F. Watercourse Alterations. The Floodplain Administrator shall notify adjacent communities, the Department of Land Conservation and Development, and other appropriate state and federal agencies, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration. This notification shall be provided by the applicant to the Federal Insurance Administration as a Letter of Map

Revision along with either a proposed maintenance plan to assure the flood carrying capacity within the altered or relocated portion of the watercourse is maintained; or certification by a registered professional engineer that the project has been designed to retain its flood carrying capacity without periodic maintenance. The applicant shall be required to submit a Conditional Letter of Map Revision when required under subsection G to ensure compliance with all applicable requirements in subsection G and Section 9.10.050.C.

- G. Requirement to Submit New Technical Data. The city's base flood elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the city must notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Title 44 of the Code of Federal Regulations (CFR), Section 65.3. The city may require the applicant to submit such data and review fees required for compliance with this section through the applicable FEMA Letter of Map Change process. The Floodplain Administrator shall require a Conditional Letter of Map Revision prior to the issuance of a floodplain development permit for proposed floodway encroachments that increase the base flood elevation and proposed development which increases the base flood elevation by more than one foot in areas where FEMA has provided base flood elevations but no floodway. An applicant shall notify FEMA within six months of project completion when an applicant has obtained a Conditional Letter of Map Revision from FEMA. This notification to FEMA shall be provided as a Letter of Map Revision.
- H. Substantial Improvement and Substantial Damage Assessments and Determinations. The Floodplain Administrator shall:
 - 1. Conduct substantial improvement (as defined in Section 9.10.020) reviews for all structural development proposal applications and maintain a record of Substantial Improvement calculations within permit files in accordance with subsection D.
 - 2. Conduct substantial damage assessments when structures are damaged due to a natural hazard event or other causes.
 - 3. Make substantial damage determinations whenever structures within the area of special flood hazard (as established in Section 9.10.030.B) are damaged to the extent that the cost of restoring the structure to its before damaged condition would equal or exceed 50% of the market value of the structure before the damage occurred.
- I. Floodplain Development Permit Required. A development permit shall be obtained before construction or development begins within any area horizontally within the area of special flood hazard established in Section 9.10.030.B. The development permit shall be required for all structures, including manufactured dwellings, and for all other development, as defined in Section 9.10.020, including fill and other development activities.
- J. Application for Development Permit. Application for a development permit may be made on forms furnished by the Floodplain Administrator and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities; and the location of the foregoing. Specifically, the following information is required:

1. In riverine flood zones, the proposed elevation (in relation to mean sea level), of the lowest floor (including basement) and all attendant utilities of all new and substantially improved structures; in accordance with the requirements of subsection D;
 2. Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
 3. Certification by a registered professional engineer or architect licensed in the State of Oregon that the floodproofing methods proposed for any nonresidential structure meet the floodproofing criteria for nonresidential structures in Section 9.10.050.M.3;
 4. Description of the extent to which any watercourse will be altered or relocated;
 5. Base flood elevation data for subdivision proposals or other development when required by this chapter;
 6. Substantial improvement calculation for any improvement, addition, reconstruction, renovation, or rehabilitation of an existing structure; and
 7. The amount and location of any fill or excavation activities proposed.
- K. Severability. This chapter and the various parts thereof are hereby declared to be severable. If any section clause, sentence, or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this chapter.
- L. Abrogation. This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another provision, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(Ord. 23-09, 12/12/2023)

§ 9.10.050. National Flood Insurance Program General Standards.

In all areas of special flood hazard, the following standards shall be adhered to:

- A. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- B. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
- C. Alteration of Watercourses. The Floodplain Administrator shall require that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained and that maintenance is provided within the altered or relocated portion of said watercourse to ensure that the flood carrying capacity is not diminished. Compliance with Section 9.10.040.F and G.
- D. Anchoring. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy. All manufactured dwellings shall be anchored in accordance with subsection M.4.

E. Water Supply, Sanitary Sewer, and On-Site Waste Disposal Systems.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding consistent with Oregon Department of Environmental Quality regulations.

F. Electrical, Mechanical, Plumbing, and Other Equipment. Electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall be elevated at or above the base flood level or shall be designed and installed to prevent water from entering or accumulating within the components and to resist hydrostatic and hydrodynamic loads and stresses, including the effects of buoyancy, during conditions of flooding. In addition, electrical, heating, ventilating, air-conditioning, plumbing, duct systems, and other equipment and service facilities shall, if replaced as part of a substantial improvement, meet all the requirements of this section.

G. Tanks. Underground tanks shall be anchored to prevent flotation, collapse and lateral movement under conditions of the base flood. Above-ground tanks shall be installed at or above the base flood level or shall be anchored to prevent flotation, collapse, and lateral movement under conditions of the base flood.

H. Critical Facilities. Construction of new critical facilities must be, to the extent practicable, located outside areas of special flood hazard.

1. Construction of new critical facilities, other than critical bridges, are allowed within areas of special flood hazard if no feasible alternative site is available and the following applicable criteria are met:
 - a. Critical facilities constructed within areas of special flood hazard must have the lowest floor elevated three feet above base flood elevation or to the height of the 500-year flood, whichever is higher.
 - b. To the extent practicable, access to and from the critical facility should also be protected to three feet above base flood elevation or to the height of the 500-year flood, whichever is higher.
 - c. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters.
2. All new and replacement critical bridges must have the lowest extension of the bridge superstructure elevated three feet above base flood elevation or to the height of the 500-year flood, whichever is higher.
3. Where standard subsection H.2 cannot be met, an analysis of alternative bridge designs is required by a registered professional civil engineer. The proposed encroachment will result in the least impact to base flood levels in the area of special flood hazard of the practicable alternative bridge designs — as demonstrated through

hydrologic and hydraulic analyses performed in accordance with standard engineering practice.

I. Subdivision Proposals.

1. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) greater than 50 lots or five acres, whichever is the lesser, shall include within such proposals, base flood elevation data.
2. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) shall:
 - a. Be consistent with the need to minimize flood damage;
 - b. Have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage; and
 - c. Have adequate drainage provided to reduce exposure to flood hazards.

J. Use of Other Base Flood Data. When base flood elevation data has not been provided in accordance with Section 9.10.030.B the local floodplain administrator shall obtain, review, and reasonably utilize any base flood elevation data available from a federal, state, or other source, in order to administer Section 9.10.050. All new subdivision proposals and other proposed new developments (including proposals for manufactured dwelling parks and subdivisions) must meet the requirements of subsection I. Base flood elevations shall be determined for development proposals that are five acres or more in size or are 50 lots or more, whichever is lesser in any A Zone that does not have an established base flood elevation. Development proposals located within a riverine unnumbered A Zone shall be reasonably safe from flooding; the test of reasonableness includes use of historical data, high water marks, FEMA provided base level engineering data, and photographs of past flooding, etc. When no base flood elevation data is available, the elevation requirement for development proposals within a riverine unnumbered A Zone is a minimum of two feet above the highest adjacent grade, to be reasonably safe from flooding. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

K. Structures Located in Multiple or Partial Flood Zones. In coordination with the State of Oregon Specialty Codes:

1. When a structure is located in multiple flood zones on the city's pertinent Flood Insurance Rate Maps (FIRMs) the provisions for the more restrictive flood zone shall apply.
2. When a structure is partially located in an area of special flood hazard, the entire structure shall meet the requirements for new construction and substantial improvements.

L. Specific Standards for Riverine (Including All Non-Coastal) Flood Zones. These specific standards shall apply to all new construction and substantial improvements in addition to the general standards contained in subsections A through K.

1. Flood Openings. All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) are subject to the

following requirements. Enclosed areas below the base flood elevation, including crawl spaces shall:

- a. Be designed to automatically equalize hydrostatic flood forces on walls by allowing for the entry and exit of floodwaters;
- b. Be used solely for parking, storage, or building access; and
- c. Be certified by a registered professional engineer or architect or meet or exceed all of the following minimum criteria:
 - i. A minimum of two openings,
 - ii. The total net area of non-engineered openings shall be not less than one square inch for each square foot of enclosed area, where the enclosed area is measured on the exterior of the enclosure walls,
 - iii. The bottom of all openings shall be no higher than one foot above grade,
 - iv. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they shall allow the automatic flow of floodwater into and out of the enclosed areas and shall be accounted for in the determination of the net open area, and
 - v. All additional higher standards for flood openings in the State of Oregon Residential Specialty Codes Section R322.2.2 shall be complied with when applicable.
2. Garages. Attached garages may be constructed with the garage floor slab below the base flood elevation in riverine flood zones, if the following requirements are met:
 - a. If located within a floodway the proposed garage must comply with the requirements of subsection N;
 - b. The floors are at or above grade on at least than one side;
 - c. The garage is used solely for parking, building access, and/or storage;
 - d. The garage is constructed with flood openings in compliance with subsection L.1 to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater;
 - e. The portions of the garage constructed below the base flood elevation are constructed with materials resistant to flood damage;
 - f. The garage is constructed in compliance with the general standards subsections A through K; and
 - g. The garage is constructed with electrical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
3. Detached Garages. Detached garages must be constructed in compliance with the standards for appurtenant structures in subsection M.6 or nonresidential structures in subsection M.3 depending on the square footage of the garage.

M. For Riverine (Non-Coastal) Areas of Special Flood Hazard with Base Flood Elevations. In addition to the general standards in subsections A through K, the following specific standards shall apply in riverine (non-coastal) areas of special flood hazard with base flood elevations: Zones A1-A30, AH, and AE:

1. Before Regulatory Floodway. In areas where a regulatory floodway has not been designated, no new construction, substantial improvement, or other development (including fill) shall be permitted within Zones A1-30 and AE on the city's Flood Insurance Rate Map (FIRM), unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point within the city.
2. Residential Construction.
 - a. New construction, conversion to, and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated at one foot above the base flood elevation.
 - b. Enclosed areas below the lowest floor shall comply with the flood opening requirements in subsection L.1.
3. Nonresidential Construction.
 - a. New construction, conversion to, and substantial improvement of, any commercial, industrial, or other nonresidential structure shall have the lowest floor, including basement, elevated at one foot above the base flood elevation. Or, together with attendant utility and sanitary facilities:
 - i. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this section based on their development or review of the structural design, specifications and plans. Such certifications shall be provided to the Floodplain Administrator as set forth Section 9.10.040.D.
 - b. Nonresidential structures that are elevated, not floodproofed, shall comply with the standards for enclosed areas below the lowest floor in subsection L.1.
 - c. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below).
4. Manufactured Dwellings.
 - a. Manufactured dwellings to be placed (new or replacement) or substantially

- improved that are supported on solid foundation walls shall be constructed with flood openings that comply with subsection L.1;
- b. The bottom of the longitudinal chassis frame beam shall be at or above base flood elevation;
 - c. Manufactured dwellings to be placed (new or replacement) or substantially improved shall be anchored to prevent flotation, collapse, and lateral movement during the base flood. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors (Reference FEMA's "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques); and
 - d. Electrical crossover connections shall be a minimum of 12 inches above base flood elevation (BFE).
5. Recreational Vehicles. Recreational vehicles placed on sites are required to:
 - a. Be on the site for fewer than 180 consecutive days; and
 - b. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - c. Meet the requirements of subsection M.4, including the anchoring and elevation requirements for manufactured dwellings.
 6. Appurtenant (Accessory) Structures. Relief from elevation or floodproofing requirements for residential and nonresidential structures in Riverine (non-coastal) flood zones may be granted for appurtenant structures that meet the following requirements:
 - a. Appurtenant structures located partially or entirely within the floodway must comply with requirements for development within a floodway found in subsection N;
 - b. Appurtenant structures must only be used for parking, access, or storage and shall not be used for human habitation;
 - c. Appurtenant structures on properties are limited to one-story structures less than 600 square feet in A zones and must meet applicable setbacks from property lines;
 - d. The portions of the appurtenant structure located below the base flood elevation must be built using flood resistant materials;
 - e. The appurtenant structure must be adequately anchored to prevent flotation, collapse, and lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy, during conditions of the base flood;
 - f. The appurtenant structure must be designed and constructed to equalize hydrostatic flood forces on exterior walls and comply with the requirements for flood openings in subsection L.1;

- g. Appurtenant structures shall be located and constructed to have low damage potential;
 - h. Appurtenant structures shall not be used to store toxic material, oil, or gasoline, or any priority persistent pollutant identified by the Oregon Department of Environmental Quality unless confined in a tank installed in compliance with subsection G; and
 - i. Appurtenant structures shall be constructed with electrical, mechanical, and other service facilities located and installed so as to prevent water from entering or accumulating within the components during conditions of the base flood.
- N. Floodways. Located within the areas of special flood hazard established in Section 9.10.030.B are areas designated as floodways. Because the floodway is an extremely hazardous area due to the velocity of the floodwaters which carry debris, potential projectiles, and erosion potential, the following provisions apply:
- 1. Prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless:
 - a. Certification by a registered professional civil engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment shall not result in any increase in flood levels within the city during the occurrence of the base flood discharge; or
 - b. A city may permit encroachments within the adopted regulatory floodway that would result in an increase in base flood elevations, provided that a Conditional Letter of Map Revision is applied for and approved by the Federal Insurance Administrator, and the requirements for such revision as established under Volume 44 of the Code of Federal Regulations, Section 65.12 are fulfilled.
 - 2. If the requirements of subsection N.1 are satisfied, all new construction, substantial improvements, and other development shall comply with all other applicable flood hazard reduction provisions of Section 9.10.050.
- O. Standards for Shallow Flooding Areas. Shallow flooding areas appear on FIRMs as AO Zones with depth designations or as AH Zones with base flood elevations. For AO Zones the base flood depths range from one to three feet above ground where a clearly defined channel does not exist, or where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is usually characterized as sheet flow. For both AO and AH Zones, adequate drainage paths are required around structures on slopes to guide floodwaters around and away from proposed structures.
- 1. Standards for AH Zones. Development within AH Zones must comply with the standards in subsections A through O.
 - 2. Standards for AO Zones. In AO zones, the following provisions apply in addition to the requirements in subsections A through K and O.
 - a. New construction, conversion to, and substantial improvement of residential structures and manufactured dwellings within AO Zones shall have the lowest floor, including basement, elevated above the highest grade adjacent to the

building, at minimum to or above the depth number specified on the Flood Insurance Rate Maps or at least two feet if no depth number is specified. For manufactured dwellings the lowest floor is considered to be the bottom of the longitudinal chassis frame beam.

- b. New construction, conversion to, and substantial improvements of nonresidential structures within AO Zones shall either:
 - i. Have the lowest floor (including basement) elevated above the highest adjacent grade of the building site, at minimum to or above the depth number specified on the Flood Insurance Rate Maps or at least two feet if no depth number is specified; or
 - ii. Together with attendant utility and sanitary facilities, be completely floodproofed to or above the depth number specified on the Flood Insurance Rate Map or a minimum of two feet above the highest adjacent grade if no depth number is specified, so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy. If this method is used, compliance shall be certified by a registered professional engineer or architect as stated in subsection M.3.a.iii.
- c. Recreational vehicles placed on sites within AO Zones on the city's Flood Insurance Rate Maps shall either:
 - i. Be on the site for fewer than 180 consecutive days; and
 - ii. Be fully licensed and ready for highway use, on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or
 - iii. Meet the elevation requirements of subsection O.2.a, and the anchoring and other requirements for manufactured dwellings of subsection M.4.
- d. In AO Zones, new and substantially improved appurtenant structures must comply with the standards in subsection M.6.
- e. In AO zones, enclosed areas beneath elevated structures shall comply with the requirements in subsection L.1.

(Ord. 23-09, 12/12/2023)

§ 9.10.060. Violations.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the terms of this chapter and other applicable regulations, including, but not limited to, TCDC Chapter 18.510, Sensitive Lands. Violations of the provisions of this chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a Class 1 civil infraction, processed according to the procedures in the civil infractions ordinance, set out in TMC Chapter 1.16. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to

continue shall constitute a separate infraction. A finding of a violation of this chapter shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition and not in lieu of any remedies available to the city. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter. Nothing contained herein shall prevent the City of Tigard from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 23-09, 12/12/2023)

AREAS OF SPECIAL FLOOD HAZARD

Title 10**VEHICLES AND TRAFFIC**

TRAFFIC AND PARKING REGULATIONS § 10.16.020. One-Way Streets. § 10.16.040. Right-of-Way. § 10.16.051. Through Truck Traffic Restricted. § 10.16.085. Blocking Street and Hindering Traffic Prohibited.	Chapter 10.16 PARKING § 10.28.010. Definitions. § 10.28.022. Purposes for Which Parking is Prohibited. § 10.28.025. Vehicle Sales on Private Property. § 10.28.030. Truck, Trailer, Bus, Camper, Motor Home, and Boat Restrictions. § 10.28.040. Removal of Parked Vehicle from Fire Area. § 10.28.050. Required Precautions. § 10.28.060. Parallel Parking Requirements. § 10.28.070. Space Markings. § 10.28.090. Two-Hour Time Limit. § 10.28.110. Fifteen-Minute Time Limit. § 10.28.115. Four-Hour Time Limit. § 10.28.120. Sunday Restrictions. § 10.28.125. Alternative Fuel Vehicle Refueling Parking. § 10.28.130. Prohibited at Any Time. § 10.28.135. Parking Permit Only Zones. § 10.28.136. Loading Zones. § 10.28.138. Permits for Construction Zones and Temporary Loading Zones.	§ 10.28.139. Permit Parking. § 10.28.140. Violation—Mode of Charging Defendant. § 10.28.145. Violation—Parking Time Limits. § 10.28.150. Violation—Penalty. § 10.28.155. Appearance by Defendant. § 10.28.160. Authority to Impound Improperly Parked Vehicles. § 10.28.170. Parking Prohibited In Specified Places. § 10.28.180. Definitions for Sections through . § 10.28.185. Parking for Persons with Disabilities. § 10.28.190. Application of Parking Regulations to Persons with Disabilities. § 10.28.210. Removal and Impoundment of Vehicle Unlawfully Parked in Space Reserved for Persons with Disabilities.
		Chapter 10.30 RESIDENTIAL PARKING ZONES
		§ 10.30.010. Purpose. § 10.30.020. Definitions. § 10.30.030. Establishing Residential Parking Zone. § 10.30.040. Zone Renewal or Revocation. § 10.30.050. Permits. § 10.30.060. Signage. § 10.30.070. Violations and Enforcement. § 10.30.080. Appeals.
		Chapter 10.32 MISCELLANEOUS PROVISIONS
		§ 10.32.010. Powers of the City Council.

VEHICLES AND TRAFFIC

§ 10.32.015.	Powers Delegated.	Chapter 10.36
§ 10.32.016.	Review or Appeal of Decision or Action of City Manager.	BICYCLES AND ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES
§ 10.32.017.	Standards.	§ 10.36.010. Definitions.
§ 10.32.030.	Authority of Police and Fire Officers.	§ 10.36.120. Racing on Public Ways—Permit Required.
§ 10.32.040.	Stop When Traffic Obstructed.	§ 10.36.130. Applicability of Traffic Laws.
§ 10.32.050.	Unlawful Marking.	§ 10.36.140. Lighting Requirements.
§ 10.32.060.	Use of Sidewalks.	§ 10.36.150. Brake Requirements.
§ 10.32.070.	Permits Required for Parades.	§ 10.36.160. Speed.
§ 10.32.080.	Funeral Procession.	§ 10.36.170. Rider—At Least One Hand on Handlebars.
§ 10.32.090.	Drivers in Procession.	§ 10.36.180. Parking Restrictions.
§ 10.32.100.	Driving Through Procession.	§ 10.36.190. Violation—Permitting or Authorizing Prohibited.
§ 10.32.110.	Emerging from Vehicle.	§ 10.36.200. Violation—Penalty.
§ 10.32.120.	Boarding or Alighting from Vehicles.	Chapter 10.50
§ 10.32.130.	Riding on Motorcycles.	MOVING OF OVERSIZE LOADS
§ 10.32.140.	Unlawful Riding.	§ 10.50.010. Title.
§ 10.32.150.	Clinging to Vehicles.	§ 10.50.020. Definitions.
§ 10.32.160.	Use of Roller Skates Restricted.	§ 10.50.030. Permit Required.
§ 10.32.170.	Skis on Streets.	§ 10.50.040. Permit Application—Fee.
§ 10.32.175.	Operation of Golf Carts and City of Tigard-Owned All-Terrain Vehicles (ATVs).	§ 10.50.050. Permit for Moving or Relocating a Building onto a Lot.
§ 10.32.190.	Damaging Sidewalks and Curbs.	§ 10.50.060. Protection of Public and Private Property and Utilities.
§ 10.32.200.	Obstructing Streets.	§ 10.50.070. Certificate of Insurance.
§ 10.32.205.	Physical Erosion.	§ 10.50.080. Permit Issuance Conditions.
§ 10.32.210.	Removing Glass and Debris.	§ 10.50.090. Permit Contents.
§ 10.32.220.	Illegal Cancellation of Traffic Citations.	§ 10.50.100. Permit Revocation.
§ 10.32.230.	Tampering with Odometers Prohibited—Penalty.	§ 10.50.110. Liability.
§ 10.32.235.	Use of Crosswalks—Jaywalking.	§ 10.50.120. Protection of Streets and Property.
§ 10.32.240.	Existing Traffic Signs.	§ 10.50.130. Project to Continue Uninterrupted.
§ 10.32.245.	Crossing Private Property.	§ 10.50.140. Cleanup.
§ 10.32.250.	Penalties.	§ 10.50.150. State Highway/County Road Use.

**§ 10.50.160. Moving Oversize Loads on
Same Property.**

§ 10.50.170. Violation—Penalty.

**CHAPTER 10.16
TRAFFIC AND PARKING REGULATIONS**

§ 10.16.020. One-Way Streets.

The following streets within the City of Tigard, or the portions of those streets identified by this section, are designated one-way streets. Traffic shall be permitted to move in one direction only.

- (1) S.W. McKenzie Street from its intersection with the westerly right-of-way line of S.W. Pacific Highway to its intersection with the easterly right-of-way line of S.W. Grant Avenue. Traffic is permitted to move only in a northwesterly direction, away from S.W. Pacific Highway and toward S.W. Grant Street;
- (2) S.W. Knoll Drive from its intersection with the easterly right-of-way line of S.W. Hall Boulevard to its intersection with the northerly right-of-way line of S.W. Hunziker Street. Traffic is permitted to move only in a southeasterly direction, away from S.W. Hall Boulevard and toward S.W. Hunziker Street.

(Ord. 70-41 Ch. 4; Ord. 71-8 §§2, 3; Ord. 71-40 §3; Ord. 78-3 §4(b); Ord. 78-48 §2)

§ 10.16.040. Right-of-Way.

- (a) The following streets and locations are designated stop streets; all traffic proceeding in the directions stated shall come to a stop before proceeding into the designated intersections:
 - (1) Eastbound traffic on S.W. Center Street shall stop at or prior to the intersection of the west line of S.W. 87th Avenue with the south line of S.W. Center Street.
 - (2) All traffic on S.W. 87th Avenue shall stop at or prior to intersection of the south line of S.W. Center Street with the west line of S.W. 87th Avenue.
 - (3) Southbound traffic on S.W. Burlcrest Drive shall stop before entering its intersection with S.W. Summercrest Drive.
 - (4) Westbound traffic on S.W. Lomita Avenue shall stop before entering its intersection with S.W. 90th Avenue.
 - (5) Westbound traffic on S.W. Murdock Street shall stop before its intersection with S.W. 96th Street.
 - (6) All traffic on S.W. Grant at its intersection with S.W. Johnson Avenue shall stop before entering the intersection.
- (b) All traffic entering a collector street or an arterial from a residential street (other than a collector or arterial) shall come to a stop before entering the collector or arterial in obedience to a duly erected stop sign or signal, except at those entry points where traffic is required only to yield, pursuant to a "yield right-of-way" sign.
- (c) All traffic entering an arterial from a collector street shall come to a stop before entering the arterial in obedience to a duly erected stop sign or signal, except at those entry points where traffic is required only to yield, pursuant to a "yield right-of-way" sign.
- (d) The designations of the streets within the City as "arterial," "collector," and "residential" shall be the designation assigned to each of the streets and portions of streets by the Tigard

comprehensive plan.
(Ord. 70-41 Ch. 4; Ord. 73-33 §7; Ord. 78-3 §4(c))

§ 10.16.051. Through Truck Traffic Restricted.²

- (1) "Truck," as referred to in this section, means a vehicle or a motor truck, truck tractor, or truck trailer as defined under Chapter 801, ORS, except that it shall be defined as all trucks licensed for twenty thousand pounds or more gross vehicle weight (G.V.W.).
- (2) Through truck traffic shall be prohibited at all times on the following streets or portions thereof within the City:
 - (a) S.W. Durham Road, from S.W. Pacific Highway to S.W. Hall Boulevard;
 - (b) S.W. Gaarde Street, from S.W. Pacific Highway to S.W. 121st Avenue;
 - (c) S.W. 121st Avenue, from S.W. Gaarde Street to S.W. Scholls Ferry Road;
 - (d) S.W. 135th Avenue, from S.W. Scholls Ferry Road to S.W. Walnut Street;
 - (e) S.W. Walnut Street, from Pacific Highway to Scholls Ferry Road;
 - (f) S.W. Tiedeman Avenue, from S.W. Tigard Street to S.W. Walnut Street;
 - (g) S.W. 78th Avenue, from S.W. Pacific Highway to S.W. Spruce Street;
 - (h) S.W. McDonald Street, from S.W. Hall Boulevard to S.W. Pacific Highway;
 - (i) S.W. Sattler Street, from S.W. Hall Boulevard to S.W. 98th Avenue;
 - (j) S.W. Bonita Road, from S.W. 72nd Avenue to S.W. Hall Boulevard;
 - (k) S.W. North Dakota Street, from S.W. Tiedeman Avenue to Scholls Ferry Road;
 - (l) S.W. Tigard Street, from S.W. Tiedeman Avenue to S.W. 115th Avenue;
 - (m) S.W. Springwood Drive, from S.W. 121st Avenue to Scholls Ferry Road;
 - (n) S.W. Pfaffle Street, from SW Pacific Highway to SW Hall Boulevard;
 - (o) S.W. Spruce Street, from S.W. 72nd Avenue to S.W. 78th Avenue;
 - (p) S.W. Pine Street, from S.W. 71st Avenue to S.W. 72nd Avenue;
 - (q) S.W. Oak Street, from S.W. 71st Avenue to S.W. 72nd Avenue;
 - (r) S.W. 72nd Avenue, from S.W. Oak Street to S.W. Spruce Street;
 - (s) S.W. Locust Street, from S.W. Hall Boulevard to S.W. Greenburg Road;
 - (t) Park Street, from Pacific Highway to 110th Avenue;
 - (u) School Street, from Pacific Highway to Grant Avenue;
 - (v) Canterbury Lane, from Pacific Highway to 103rd Avenue;

2. Ord. 87-45 established Section 10.16.051. Ord. 87-61 repealed Ord. 87-45 but reinstated Section 10.16.051.

- (w) O'Mara Street, from Hall Boulevard to Frewing Street;
 - (x) Frewing Street, from Pacific Highway to O'Mara Street;
 - (y) Ash Avenue, from Fanno Creek to McDonald Street.
- (3) Trucks that can reach their destination by traveling any other route than these restricted streets are defined as "through truck traffic."
- (Ord. 87-47 §1; Ord. 87-61 §§1, 2; Ord. 88-37 §1; Ord. 89-08 §1; Ord. 90-37 §1; Ord. 94-23)

§ 10.16.085. Blocking Street and Hindering Traffic Prohibited.

No person may block any street or place anything in or upon any street which will hinder traffic and travel thereon, except in an emergency or as authorized by state law or city ordinance.

(Ord. 77-97 §1; Ord. 19-12 §1)

CHAPTER 10.28 PARKING

§ 10.28.010. Definitions.

- A. "Parking" or "parked," for purposes of the city motor vehicle code, means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers, or in obedience to traffic regulations or traffic signs or signals.
- B. For purposes of this chapter, the definitions of the following terms as used herein shall conform to the following ORS sections (2017) which by reference herein are made a part of this chapter:

"Alternative fuel vehicle" is defined in ORS 469B.100, except that "alternative fuel vehicle" includes vehicles registered in any jurisdiction.

"Camper" is defined as set forth in ORS Section 801.180.

"Highway" or "street" is defined as set forth in ORS Section 801.305.

"Motorbus" is defined as a Commercial Bus as set forth in ORS 801.200.

"Motor home" is defined as set forth in ORS Section 801.350.

"Motor truck" is defined as set forth in ORS Section 801.355.

"Trailer" is defined as set forth in ORS Section 801.560.

"Travel trailer" is defined as set forth in ORS Section 801.565.

"Truck tractor" is defined as set forth in ORS Section 801.575.

"Truck trailer" is defined as set forth in ORS Section 801.580.

(Ord. 70-41 §1; Ord. 93-21 §1; Ord. 99-28 ; Ord. 18-01 §1; Ord. 20-04 §1)

§ 10.28.022. Purposes for Which Parking is Prohibited.

No person shall park a vehicle on the right-of-way of any highway, or upon any public street or public way within the city limits for any of the following purposes:

- A. Selling or offering merchandise for sale;
- B. Displaying the vehicle for sale;
- C. Washing, greasing or repairing such vehicle except as may be necessitated by emergency.

(Ord. 93-21 §3; Ord. 18-01 §1)

§ 10.28.025. Vehicle Sales on Private Property.

- A. No property owner, unless in compliance with the provisions of Chapter 5.04, Business Taxes, and in further compliance with all applicable zoning codes, shall allow more than one vehicle to be displayed for sale on his or her property.
- B. Violation of this section shall be a Class 1 infraction and shall be subject to the provisions of the civil infractions ordinance, Chapter 1.16 of this code.

(Ord. 87-40 §1)

§ 10.28.030. Truck, Trailer, Bus, Camper, Motor Home, and Boat Restrictions.

- A. No person shall at any time park or leave standing a motor bus, motor truck, truck tractor, motor home, boat, vehicle with camper, or trailer, whether attended or unattended, on any improved public highway, public street or other public way within the city limits, for a period greater than 30 minutes, between the hours of 12 a.m. and 6 a.m.
- B. A camper, travel trailer or motor home may be parked on a public street longer than the period allowed in subsection A if:
 - 1. It is owned by the resident or guest of the resident of the property in front of which it is parked;
 - 2. It is parked on the public street adjacent to the lot of the resident; and
 - 3. It is parked on the public street no longer than 10 days in any calendar year. After the 10-day allowance, the vehicle may not be parked or left standing for a period greater than 30 minutes, between the hours of 12 a.m. and 6 a.m.
- C. Such vehicle must be parked in a manner which does not interfere with traffic or create a hazard by obstructing the view of drivers. No feature of the vehicle may create a hazard to pedestrian traffic, including, but not limited to, slide outs, canopies and retractable steps.
- D. Tractor Trailer, Truck Trailer. No person shall at any time park a tractor trailer or truck trailer as described in Section 10.28.010.B unattended on any improved public highway, public street or other public way within the city limits.
- E. These restrictions shall not apply to any city-owned or public-owned vehicle that is operating in an official capacity.

(Ord. 70-41 §3; Ord. 76-30 §1; Ord. 76-57 §1; Ord. 79-109 §1; Ord. 81-84 §1; Ord. 81-86 §1; Ord. 93-21 §4; Ord. 01-23 ; Ord. 18-01 §1)

§ 10.28.040. Removal of Parked Vehicle from Fire Area.

Whenever the owner or driver of a vehicle discovers that such vehicle is parked immediately in front of or close to a building to which the Fire Department has been summoned, he or she shall immediately remove such vehicle from the area unless otherwise directed by police or fire officers.

(Ord. 70-41 §4)

§ 10.28.050. Required Precautions.

No person having control or charge of a motor vehicle shall allow it to stand on any street unattended without first fully setting its parking brakes, stopping its motor and removing the ignition key and, when standing upon any precipitous grade, the front wheels of the vehicle shall be angled into the curb.

(Ord. 70-41 §5)

§ 10.28.060. Parallel Parking Requirements.

No person shall stand or park a vehicle in a street other than parallel with the edge of the shoulder or curb when present, headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within 12 inches of the edge of the curb, except where the street is marked

or signed for angle parking.
(Ord. 70-41 §6; Ord. 18-01 §1)

§ 10.28.070. Space Markings.

Where parking space markings are placed on a street, no person shall stand or park a vehicle other than at the indicated direction and within a single marked space.
(Ord. 70-41 §7)

§ 10.28.090. Two-Hour Time Limit.

No person shall park or leave standing a vehicle of any kind or character, whether motorized or not, and whether attended or unattended, continuously in excess of two hours in any area designated as a two-hour parking zone during the times and days specified by signage, except with a valid construction zone or temporary loading zone permit issued pursuant to TMC Section 10.28.138.

(Ord. 70-41 §9; Ord. 76-53 §1; Ord. 77-5 §1; Ord. 77-36 §1; Ord. 79-10 §1; Ord. 79-108 §1; Ord. 80-65 §3; Ord. 81-87 §1; Ord. 82-75 §1; Ord. 84-03 §1; Ord. 86-45 §1; Ord. 87-05 §1; Ord. 92-27 §2; Ord. 95-31 ; Ord. 99-13 ; Ord. 02-14 ; Ord. 18-01 §1)

§ 10.28.110. Fifteen-Minute Time Limit.

No person shall park or leave standing a vehicle of any kind or character, whether motorized or not, and whether attended or unattended, for a period of longer than 15 minutes in any area designated as a 15-minute parking zone during the times and days specified by signage.
(Ord. 70-41 §§10, 12, 12A; Ord. 71-33 §1; Ord. 86-59 §1; Ord. 95-30 ; Ord. 18-01 §1)

§ 10.28.115. Four-Hour Time Limit.

No person shall park or leave standing a vehicle of any kind or character, whether motorized or not, or attended or unattended, continuously in excess of four hours in any area designated as a four-hour parking zone during the times and days specified by signage, except with a valid permit pursuant to TMC Section 10.28.138 or 10.28.139.

(Ord. 18-01 §1)

§ 10.28.120. Sunday Restrictions.

No person shall park a motor vehicle of any kind or character, whether motorized or not, whether attended or unattended, in any area designated as a Sunday restricted zone during the times specified by signage.

(Ord. 70-41 §13; Ord. 18-01 §1)

§ 10.28.125. Alternative Fuel Vehicle Refueling Parking.

No person may park a vehicle in any public parking space that is marked or signed as reserved for alternative fuel vehicle refueling if the vehicle is not engaged in the refueling process.
(Ord. 20-04 §2)

§ 10.28.130. Prohibited at Any Time.

No person shall at any time park or leave standing a vehicle of any kind or character, whether

motorized or not, and whether attended or unattended, in any area designated by signage as a no parking zone.

(Ord. 70-41 §14; Ord. 71-32 §1; Ord. 74-44 §1; Ord. 75-51 §1; Ord. 75-34 §1; Ord. 75-38 §1; Ord. 75-47 §1; Ord. 76-6 §1; Ord. 76-7 §1; Ord. 76-8 §1; Ord. 76-20 §1; Ord. 76-31 §1; Ord. 76-33 §1; Ord. 76-38 §1; Ord. 76-56 §1; Ord. 77-6 §1; Ord. 77-36 §2; Ord. 77-39 §1; Ord. 77-40 §1; Ord. 77-61 §1; Ord. 77-73 §1; Ord. 77-77 §1; Ord. 77-78 §1; Ord. 77-92 §1; Ord. 77-93 §1; Ord. 78-38 §1; Ord. 78-39 §1; Ord. 78-68 §1; Ord. 78-45 §1; Ord. 79-9 §1; Ord. 79-39 §1; Ord. 79-114 §1; Ord. 79-113 §1; Ord. 79-107 §1; Ord. 79-60 §1; Ord. 80-65 §§1, 3; Ord. 81-46 §1; Ord. 81-57 §1; Ord. 81-80 §1; Ord. 82-76 §1; Ord. 82-82 §1; Ord. 83-28 §1; Ord. 83-29 §1; Ord. 83-46 §1; Ord. 83-50 §1; Ord. 84-53 §1; Ord. 86-04 §1; Ord. 86-13 §1; Ord. 86-45A §1; Ord. 86-54 §1; Ord. 86-55 §1; Ord. 87-06 §1; Ord. 86-67 §1; Ord. 87-46 §1; Ord. 87-53 §1; Ord. 88-04 §1; Ord. 88-05 §1; Ord. 88-30 §1; Ord. 89-12 §1; Ord. 90-31 §1; Ord. 90-32 §1; Ord. 90-33 §1; Ord. 90-34 §1; Ord. 90-35 §1; Ord. 90-36 §1; Ord. 90-42 §1; Ord. 91-09 §1; Ord. 91-23 §1; Ord. 91-24 §1; Ord. 91-25 §1; Ord. 91-29 §1; Ord. 92-11 §1; Ord. 92-17 §1; Ord. 92-28 §1; Ord. 93-26 §1; Ord. 93-27 §§1, 2; Ord. 94-22 ; Ord. 95-06 ; Ord. 95-07 ; Ord. 95-17 ; Ord. 95-23 ; Ord. 95-25 ; Ord. 95-32 ; Ord. 96-01 ; Ord. 98-09 ; Ord. 98-23 ; Ord. 99-11 ; Ord. 99-12 ; Ord. 02-14 ; Ord. 09-09 §3; Ord. 14-07 §1; Ord. 18-01 §1)

§ 10.28.135. Parking Permit Only Zones.

- A. The City Council may, by resolution, establish permit parking only zones. Such zones will be for the exclusive use of vehicles with valid permits, issued pursuant to TMC Section 10.28.139, during the days and times indicated by signage.
- B. At all times other than those times designated in the resolution establishing a particular permit parking only zone, such zones are available for general use.

(Ord. 75-19 §1; Ord. 18-01 §1)

§ 10.28.136. Loading Zones.

- A. The City Council may, by resolution, establish loading zones along any street for the purpose of permitting the loading and unloading of merchandise and persons. In establishing loading zones the City Council shall give consideration to the volume and nature of business within the area under consideration, the traffic demands upon the street in question, the nature of the need of the adjacent business or businesses and of the needs of other businesses within the immediate area, the width and surface of the street, and any other relevant information. Loading zones will be marked by signage.
- B. Loading zones are reserved for use by commercial vehicles loading and unloading persons and commodities during the hours designated on all days except Sundays and holidays. No person may stop, stand or park any vehicle other than a commercial vehicle within the designated area between such hours, except that noncommercial vehicles may use such zones while actually engaged in the loading or unloading of persons or commodities. Noncommercial vehicles must, upon demand, give way to commercial vehicles whose drivers desire to use the zone for loading or unloading purposes. Commercial vehicles using loading zones are entitled to the use of a loading zone only during such time as may reasonably be necessary for the loading and unloading of persons and materials and for so long as such activity actually continues. Loading zones may not be used by employees of the business or businesses for the benefit of which they were established, for any purpose except the continuous loading or unloading of persons or materials.

- C. At all times other than those times designated in the resolution establishing a particular loading zone, such zones are available for general use.
- D. The City Council may consider creation of loading zones upon application by any resident or property owner, and if, after consideration of the factors identified in subsection A of this section, the City Council determines that a loading zone should be created, it will create such loading zone by resolution and direct that the loading zone so established be marked by appropriate signs. The city may require the applicant to pay the cost of the necessary signs and poles and the cost of the labor necessary to install them.

(Ord. 76-10 §1; Ord. 18-01 §1)

§ 10.28.138. Permits for Construction Zones and Temporary Loading Zones.

- A. Provision for Permits. Any person who finds it necessary to park a motor vehicle for actual construction or maintenance work or who finds it necessary to block off a parking space or spaces along the curb in a zone in which parking is controlled, shall be entitled to a construction zone permit. Any person who finds it necessary in connection with the conduct of a commercial enterprise or in the construction of a building, to park a motor vehicle or to block off a parking space or spaces along the curb for such work may apply for a temporary loading zone permit. Application for a construction zone permit or a temporary loading zone permit shall be made in writing on a form provided by the Community Development Director. The director, or director's designee, shall make such investigation as he or she deems necessary and, if he or she is satisfied that the applicant has a reasonable need for the permit, will issue a construction zone permit or a temporary loading zone permit.
- B. Term of Permit. The term of a permit will be determined by the director and entered upon the permit, but may not exceed one year.
- C. Fees. The fee for a construction zone permit or a temporary loading zone permit will be determined by resolution of the City Council and will be paid at the time of application.
- D. Display of Permit. Whenever a vehicle is parked as authorized by such a permit, the permit shall must be legible and visible from outside the vehicle.
- E. The purpose of this section is to permit use of the public streets for parking in circumstances in which parking would otherwise be prohibited or limited as to time pursuant to the ordinances of the City of Tigard.

(Ord. 78-75 §2; Ord. 18-01 §1)

§ 10.28.139. Permit Parking.

- A. A vehicle parking permit allows:
 1. The parking of a permitted vehicle to be exempt from the posted time limit under TMC Section 10.28.115 where permit parking is designated by signage; and
 2. The parking of a permitted vehicle in a space identified by signage as being for permit parking only in a permit parking zone established pursuant to TMC Section 10.28.135.
- B. Any person is eligible to obtain a vehicle parking permit.

- C. A person desiring a vehicle parking permit must apply for same with the Community Development Department on a form prepared by the city and pay applicable fees. Permit fees and changes to permit fees for permit parking authorized by this chapter shall be by resolution of the City Council.
- D. A permit holder shall notify the Community Development Department of loss or theft of a vehicle parking permit within three business days. The permit holder may purchase a replacement vehicle permit by paying the applicable fee, as set by resolution of the City Council.
- E. A parking permit is valid until expiration, surrender, or revocation so long as the permit holder and its vehicle remain in compliance with all parking area regulations.
- F. The city may revoke and may require the surrender of a vehicle parking permit held by a person or business who commits misuse of a parking permit as defined in subsection G of this section.
- G. A person commits the offense of misusing a parking permit if a person does any of the following:
 - 1. Displays a permit on a vehicle for which the permit was not issued;
 - 2. Displays a permit that is expired, suspended, or revoked;
 - 3. Obtains a permit from the city by misrepresentation;
 - 4. Fails to surrender a permit at the city's lawful request;
 - 5. Duplicates or attempts to duplicate, by any means, a parking permit authorized pursuant to this chapter, or displays such a duplicate permit on any vehicle.
- H. In addition to any fines or other penalties that may be imposed, upon conviction for misusing a parking permit, all permits issued to the offender and the right to apply for or display a permit shall be suspended for a period of three months.
- I. Misuse of a parking permit is a violation punishable under TMC Section 10.28.150.
- J. Display of a vehicle parking permit does not convey any privileges other than that of exceeding the posted permit parking time limit or parking in permit parking areas. It does not authorize parking in any other restricted zone and is not a defense in enforcement of TMC Chapter 7.60.
- K. Nothing in this chapter shall limit the authority of any city police officer from requiring or causing the removal of any parked vehicle in an emergency or where the vehicle is subject to seizure or removal according to law.

(Ord. 18-01 §1)

§ 10.28.140. Violation—Mode of Charging Defendant.

- A. In all prosecutions for violation of city motor vehicle parking laws, it shall be sufficient to charge the defendant by an unsworn written notice if the same clearly states:
 - 1. The date, place and nature of the charge.

2. The time and place for defendant's appearance in court.
 3. The name of the citing officer.
 4. The license number of the vehicle.
- B. The notice provided for in subsection A of this section shall either be delivered to the defendant or placed in a conspicuous place upon the vehicle involved in the violation. The notice shall serve as the complaint in the case. In all other respects the procedure now provided by law in such cases shall be followed.

(Ord. 70-41 §15; Ord. 18-01 §1)

§ 10.28.145. Violation—Parking Time Limits.

- A. It shall be unlawful to park a vehicle in violation of the maximum time limits applicable in any time limited parking zone. The time limits mean the continuous aggregate of time in which a vehicle is parked in a time-limited zone. This shall not prohibit removing a vehicle from the above-designated area and returning the vehicle to said area after expiration of one hour or moving the vehicle more than 300 feet from its original location.
- B. Subsection A does not apply to vehicles in a 4-hour parking space displaying a valid permit pursuant to TMC Sections 10.28.138 or 10.28.139.

(Ord. 18-01 §1)

§ 10.28.150. Violation—Penalty.

Any violation of the provisions of any section of this chapter or any rule or regulation therein stated, shall, upon conviction, be punishable by a fine set by resolution of the City Council.

(Ord. 70-41 §30; Ord. 18-01 §1)

§ 10.28.155. Appearance by Defendant.

- A. A defendant must, by the appearance date listed on the citation for a violation of this chapter, make a first appearance by one of the following methods:
 1. Personally appearing before the municipal court and entering a plea;
 2. Entering a plea of no contest in writing, by regular mail or personal delivery to the court clerk, accompanied by the fine stated on the citation;
 3. Depositing the fine stated on the citation, by regular mail or personal delivery to the court clerk, without a specific plea. Depositing a sum pursuant to this subsection will be deemed a plea of no contest.
- B. If the defendant fails, within the time provided by subsection A of this section, to make a first appearance or to deposit the required fine, the municipal court will enter an order and judgment of default against the defendant, with the fine entered as a judgment in favor of the city.

(Ord. 20-04 §3)

§ 10.28.160. Authority to Impound Improperly Parked Vehicles.

- A. When any unattended vehicle is parked upon any street, alley or public way of the City of

Tigard in such a manner that it is unlawfully parked in any prohibited or restricted area; or is unlawfully parked for a length of time prohibited by ordinance or resolution of this city; or is parked in such a position that it constitutes an obstruction to traffic or creates a danger to travel upon the street, alley or public way; or is found abandoned in any street, alley or public way; or in the event that an operator of a vehicle is arrested and placed in custody and is not in condition to drive the vehicle to a place of safety and there is no other person present who may properly act as agent for such operator to drive the vehicle to a place of safety, such vehicle is declared to be a public nuisance and subject to summary abatement, removal and impounding.

- B. Both the owner and the operator of a vehicle impounded pursuant to subsection A of this section shall be legally responsible for payment of the costs of towing and storage. The towing and storage charges shall be established in advance, pursuant to an agreement between the police department of the City of Tigard and the towing and storage firm or firms called upon to conduct such business. No charges in excess of those previously agreed upon shall be levied against the owner or operator of a vehicle towed pursuant to subsection A of this section.
- C. The towing service called upon to impound a vehicle and finding the owner or driver thereof present shall release the vehicle upon the presentation of proper identification of the owner or operator, and upon the owner or operator's signing an authorized receipt in duplicate (except where exclusive orders are given by the police department that the vehicle be impounded), and a service charge not to exceed one-half of the cost for the towing of the vehicle shall be made, that charge to be paid by the owner or operator. The duplicate signed receipt shall be given to the operator or owner of the vehicle, and the original signed copy shall be recorded by the towing service in its ledger of releases.

(Ord. 77-98 §1)

§ 10.28.170. Parking Prohibited In Specified Places.

It is unlawful for the driver of a vehicle to stop or park the vehicle, whether attended or unattended, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control signal, in any of the following places:

- A. Within an intersection.
- B. On a crosswalk.
- C. Within 50 feet of any uncontrolled intersection or any intersection controlled with side-mounted stop signs, side-mounted yield signs, or side-mounted signals, except:
 - 1. On one-way streets leaving an intersection;
 - 2. On streets otherwise signed if:
 - a. The vehicle is over six feet in height, or
 - b. The vehicle is less than six feet in height but by manufacture or modification, obscures the vision of:
 - i. Any official side-mounted traffic control sign or signal,
 - ii. Intersection traffic, or

- iii. Any pedestrian in a crosswalk;
- c. Vehicles described in subsection C.2 of this section include, but are not limited to, the following:
 - i. Vehicles with darkened, shaded or curtained windows,
 - ii. Vehicles modified to eliminate side window(s) and/or rear windows,
 - iii. Vehicles with visibility through windows blocked by parcels, packages or freight,
 - iv. Pickup vehicles of less than six feet in height but mounted with a canopy or camper with limited visibility through it,
 - v. Panel trucks (except those with windows on both sides of the rear portion of the truck, and also on the back of the truck);
- d. An uncontrolled intersection is one where there are no traffic-regulating signs or signals.
- D. Any other vehicle not identified in subsection C of this section, within 25 feet from the intersection of curb lines; or if none, then within 15 feet of the intersection of property lines at an intersection within a business or residence district.
- E. Within 15 feet of the driveway entrance to any fire station.
- F. Within 10 feet of a fire hydrant, save and except taxicabs occupying properly signed taxi zones.
- G. In front of a private driveway.
- H. On a sidewalk or parking strip.
- I. On the roadway side of any vehicle stopped or parked at the edge of a street or highway.
- J. At any place where official signs, curb paint, or markings have been installed prohibiting standing, stopping or parking; provided, however, driver-attended private passenger motor vehicles, taxicabs or other public conveyances may stop for not more than 30 seconds in such a tow-away zone for the purposes of loading and unloading passengers.
- K. In front of the entrance of any post office or other place where mail is received; or within 10 feet of a mailbox during the hours of 8:00 a.m. to 4:30 p.m.
- L. In any street, alley or lane, so as to prevent the free passage of other vehicles in both directions at the same time (except on one-way streets), or so as to prevent any vehicle from turning from one street into another.
- M. In any emergency zone.
- N. In any loading zone, except as to a commercial vehicle when actually engaged in loading or unloading goods, wares, merchandise or materials, for a period not exceeding 20 minutes; and as taxicabs when loading or unloading passengers or merchandise, for a period of time not exceeding two minutes.

- O. In a bus loading zone, except a motor bus or taxicab actually engaged in loading or unloading passengers or merchandise for a period not exceeding two minutes.
 - P. In any construction zone, except by such vehicles as are actually necessary to the construction work being carried on.
 - Q. On city-owned or city-operated property designated for use for motor vehicle parking by authorized city personnel only, without the consent of the city, if there is in plain view on such property a sign prohibiting public parking or restricting parking.
 - R. Within any city park or part thereof, during the time the park, or the relevant part of it, is closed to the public.
 - S. In a marked bicycle lane.
 - T. Within 20 feet from a crosswalk at an intersection.
- (Ord. 78-76 ; Ord. 87-70 §1; Ord. 18-01 §1)

§ 10.28.180. Definitions for Sections 10.28.190 through 10.28.210.

As used in Sections 10.28.190 through 10.28.210 unless the context requires otherwise:

"Disabled parking space" means a parking space that is on private or public property and is marked or signed to provide parking for persons with disabilities.

"Government building" and "public building" have the meanings given those terms in ORS 447.210.

"Marked motor vehicle" means a motor vehicle conspicuously displaying the decal, insignia or plates issued under the provisions of ORS 487.925.

"Person with a disability" means a person who permanently suffers from any of the following disabilities:

- 1. Loss or loss of function of one or both legs or significant limitation in the use of the legs;
 - 2. Inability to be mobile without the use of a wheelchair or other assistance device;
 - 3. Loss or loss of function of both hands;
 - 4. Loss of vision or substantial loss of visual acuity or visual field beyond correction;
 - 5. Respiratory disability that makes use of walking as a means of transportation impossible or impractical; or
 - 6. Cardiovascular disability that makes use of walking as a means of transportation impossible or impractical.
- (Ord. 80-58 §1; Ord. 18-01 §1)

§ 10.28.185. Parking for Persons with Disabilities.

- A. A person commits the offense of unlawful parking in a space reserved for persons with disabilities if:
 - 1. The person parks a vehicle in any parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities and the

- vehicle does not conspicuously display a disabled person parking permit issued by Oregon DMV or another jurisdiction;
2. The person parks a vehicle in the aisle required by ORS 447.233 regardless of whether or not the vehicle displays a disabled person parking permit; or
 3. The person parks a vehicle in a parking space that is on private or public property and that is marked or signed "Wheelchair User Only" as described in ORS 447.233 and the vehicle does not conspicuously display a "Wheelchair User" placard or decal issued under ORS 811.613.
- B. A person commits the offense of blocking a parking space reserved for persons with disabilities if the person:
1. Stops or parks a vehicle in such a way as to block access to a parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities; or
 2. Places an object or allows an object to be placed in such a manner that it blocks access to a parking space that is on private or public property and that is marked or signed to provide parking for persons with disabilities.
- C. A person commits the offense of unlawful use of a disabled person parking permit if the person:
1. Is not a person with a disability and is not transporting the holder of a disabled person parking permit to or from the parking location; and
 2. Uses a disabled person parking permit described under ORS 811.602 or 811.606 to exercise any privileges granted under ORS 811.635.
- D. A person commits the offense of use of an invalid disabled person parking permit if the person uses a permit that is not a valid permit from another jurisdiction, and that:
1. Has been previously reported as lost or stolen;
 2. Has been altered;
 3. Was issued to a person who is deceased at the time of the citation;
 4. Has not been issued under ORS 811.602;
 5. Is a photocopy or other reproduction of a permit, regardless of the permit or status; or
 6. Is mutilated or illegible.
- E. Subsections A through D of this TMC Section 10.25.085 do not apply:
1. To a vehicle that is momentarily in a disabled parking space for purposes of allowing a person with a disability to enter or leave the vehicle.
 2. To any disabled parking space that is subject to different provisions or requirements under city ordinance if the different provisions or requirements are clearly posted.

(Ord. 18-01 §1)

§ 10.28.190. Application of Parking Regulations to Persons with Disabilities.

A disabled person may:

- A. Park a marked motor vehicle in any public parking zone restricted as to the length of time parking is permitted therein without incurring the penalties imposed for overtime parking in such zones; and
- B. Park a marked motor vehicle in any public parking zone with metered parking without being required to pay any parking meter fee.
- C. The provisions of subsection A of this section do not apply:
 1. To parking in zones where stopping, parking or standing of all motor vehicles is prohibited;
 2. To late evening or overnight parking where such parking is prohibited;
 3. To parking in zones reserved for special types of motor vehicles or activities; or
 4. To parking in zones where parking is permitted only for 30 minutes or less.
- D. A person other than a person with a disability, as defined in TMC Section 10.28.180, and who exercises the privileges granted to a person with a disability under this section, commits a parking violation as provided in Section 10.28.150.

(Ord. 80-58 §2; Ord. 18-01 §1)

§ 10.28.210. Removal and Impoundment of Vehicle Unlawfully Parked in Space Reserved for Persons with Disabilities.

A vehicle parked on private property in violation of Section 10.28.185 is subject to the provisions of Section 10.28.160.

(Ord. 80-58 §4; Ord. 18-01 §1)

CHAPTER 10.30 RESIDENTIAL PARKING ZONES

§ 10.30.010. Purpose.

The purpose of this chapter is to address safety and livability concerns in residential neighborhoods caused by non-residential sources.

(Ord. 19-21 §1)

§ 10.30.020. Definitions.

"City manager" means the city manager for Tigard, Oregon, or the city manager's designee.

"Resident" means an individual who resides within a Residential Parking Zone. A resident must be the legal owner of the property or have a legal right to occupy the property.

"Residential Parking Zone" means the identified geographic area, approved by the city manager, designated for parking by residents and their guests, only, during all or some identified and posted hours of the day.

"Residential parking zone plan" means the guidelines for a residential parking zone, as described in Section 10.30.030.C.

(Ord. 19-21 §1)

§ 10.30.030. Establishing Residential Parking Zone.

- A. Residents may apply to have an area designated as a residential parking zone through a community-initiated petition submitted to the city manager. The petition must be signed by a resident from least 60% of the addresses proposed for inclusion in the residential parking zone, limited to one resident signature per address. The petition must include:
 1. A detailed description of the parking problem or livability concerns justifying creation of a residential parking zone. Such concerns may include, but are not limited to, blocked fire hydrants or crosswalks, inability to safely enter road way from driveways, or inability of waste haulers or mail carriers to access property.
 2. The cause of the parking problems or livability concerns.
 3. A map showing the proposed boundaries of the residential parking zone.
 4. The type of parking restrictions requested, including prohibiting unpermitted parking during specified hours or limiting unpermitted parking to a specific duration of time.
 5. The proposed maximum number of resident and guest parking permits per resident.
- B. Upon receipt of a complete petition, the city manager will determine whether the affected area is eligible for a residential parking zone. Incomplete petitions will be returned.
- C. If the city manager determines an area is eligible, the city manager may propose a residential parking zone plan. The city manager's proposed plan must include:
 1. The boundaries of the proposed residential parking zone.
 2. The type of parking restrictions proposed, including prohibiting unpermitted parking during specified hours or limiting unpermitted parking to a specific duration of time.

3. The maximum number of resident and guest parking permits available for purchase by each resident.
- D. The city manager will mail the proposed plan to all residents within 500 feet of the proposed residential parking zone, along with notice of a public meeting to discuss the proposal. The city manager may refine the proposed plan following the public meeting.
- E. Within 30 days following the public meeting, the city manager will prepare a ballot to be mailed to all addresses within the proposed residential parking zone. One resident per address is eligible to vote on the proposal. Ballots must be returned to the city manager on or before the date specified.
- F. For the city manager to approve creation of a residential parking zone, a minimum 70% of the ballots must be returned, out of which a minimum of 75% must be votes in support of the proposal. If such requirements are met, the city manager will notify all owners within the residential parking zone of the approval and effective date. If such requirements are not met, a minimum of one year must elapse before a new proposal may be initiated for the same or similar area.
- G. Residential parking zones in effect as of February 1, 2020 will be allowed to remain as adopted. An adopted residential parking zone may not be modified except as provided in the chapter.

(Ord. 19-21 §1; Ord. 23-01 §3)

§ 10.30.040. Zone Renewal or Revocation.

A residential parking zone will automatically renew annually, unless:

- A. The city manager receives a petition signed by a resident from at least 60% of the addresses in the residential parking zone, or portion thereof, limited to one resident signature per address, requesting termination of the residential parking zone; or
- B. The city manager finds it is in the best interest of the city to terminate the residential parking zone, or portion thereof. Prior to termination, the city manager will send notice of a public meeting to all residents in the residential parking zone. Within 30 days following the public meeting, the city manager will determine whether to terminate the residential parking zone, or portion thereof, and provide notice to all residents of the decision. If the city manager terminates the residential parking zone, or portion thereof, a minimum of one year must elapse before a new proposal may be initiated for the same or similar area.
- C. A portion of a residential parking zone terminated pursuant to subsection A or B above must be directly adjacent to the end of the zone.

(Ord. 19-21 §1; Ord. 23-01 §1)

§ 10.30.050. Permits.

- A. Once a residential parking zone is approved, a resident may apply to the city for an on-street parking permit or guest pass, as provided in the residential parking zone plan. An applicant must show proof of residency within or directly adjacent to the residential parking zone and proof of vehicle ownership of vehicle(s) registered to that address. A permitted guest has the same rights and permissions as a resident.

- B. The cost of each resident and guest parking permit will be determined by resolution of city council.
- C. A resident must reapply each year for all parking permits, on or before July 1st. All permits are good from July 1st to June 30th, regardless of when the permit was purchased. Costs for permits may be prorated on a semi-annual basis.
- D. Parking permits must be clearly displayed in the front window of the vehicle at all times when residential parking zone restrictions are in effect.
- E. A permit is not required for city-owned or publicly-owned vehicles operating in an official capacity or when authorized by state law or city ordinance.

(Ord. 19-21 §1; Ord. 20-05 §1; Ord. 23-01 §2)

§ 10.30.060. Signage.

Parking restrictions in a residential parking zone will be identified by signage.

(Ord. 19-21 §1)

§ 10.30.070. Violations and Enforcement.

- A. It is a violation of this chapter for any person to:
 - 1. Park on-street in a residential parking zone for more than two hours without displaying a resident or guest parking permit.
 - 2. Provide false information in connection with an application for a resident or guest permit.
 - 3. Fail to surrender a permit, when requested to do so, when the person is no longer entitled to the permit.
 - 4. Use a permit when the permit holder is no longer entitled to the permit.
 - 5. Use, or allow the use of, a residential parking permit in connection with a vehicle other than the resident's vehicle for which the permit was issued.
 - 6. Sell, transfer, purchase, or otherwise acquire for value any permit issued by the City of Tigard.
 - 7. Use, or allow the use of, a permit in a manner inconsistent with the terms and limitations of the permit or this chapter.
- B. Violation of this chapter may result in the immediate revocation of a resident or guest parking permit and, upon conviction, be punishable by a fine set by resolution of the city council.
- C. The city may tow a vehicle for repeated violations of this chapter or if a health or safety risk exists.

(Ord. 19-21 §1)

§ 10.30.080. Appeals.

The decisions of the city manager with respect to any of the foregoing are final and not subject

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to appeal.
(Ord. 19-21 §1)

CHAPTER 10.32 MISCELLANEOUS PROVISIONS

§ 10.32.010. Powers of the City Council.

The council, as the city's elected body, is the road authority for all public streets, except state highways, as designated by state law. Council may, by resolution, establish traffic controls which shall become effective upon the installation of appropriate signs, signals or other markings. Such traffic controls include, but are not limited to, regulation of:

- A. The parking and standing of vehicles by designating areas within which, or streets or portions of streets along which, parking meters will be installed;
- B. Through streets and one-way streets;
- C. For trucks exceeding specified weights, streets to which they shall be restricted and streets on which they are prohibited;
- D. Loading zones;
- E. Turn regulations at intersections;
- F. Special speed regulations in city parks;
- G. Bicycle paths.

(Ord. 70-41 Ch. 8 §1; Ord. 78-70 §2; Ord. 91-26 §2; Ord. 16-08 §1)

§ 10.32.015. Powers Delegated.

- A. The city manager is delegated the authority to take the following actions on a permanent or temporary basis and may further delegate the authority to:
 - 1. Regulate the parking and standing of vehicles by:
 - a. Classifying portions of streets upon which either parking or standing, or both, shall be prohibited, or prohibited during certain hours,
 - b. Establishing the time limit for legal parking in limited parking areas,
 - c. Designating the angle of parking if other than parallel to the curb,
 - d. Designating city-owned or leased property on which public parking will be permitted;
 - 2. Set the charge for city parking meters;
 - 3. Regulate traffic control signals and the time of their operation;
 - 4. Regulate bus stops, bus stands, taxicab stands and stands for other passenger common carrier vehicles;
 - 5. Designate marked pedestrian crosswalks and safety zones; and
 - 6. Designate locations for traffic control devices, markings, and signs.

- B. The delegation of road authority to the city manager does not deprive the city council of its power to act as the city's final road authority.
- C. The council may on its own initiative or at the request of the city manager make an initial decision on a matter within the road authority of the city.

(Ord. 16-08 §1)

§ 10.32.016. Review or Appeal of Decision or Action of City Manager.

- A. Any decision or action of the city manager or designee in this chapter is subject to appeal to or review by the city council.
- B. Any person affected by a decision or action of the city manager or designee under this chapter may appeal the decision or action to the city council by filing a written appeal with the city recorder within 10 calendar days of the decision or action or 10 calendar days of the date the person knew or should have known of the decision or action.
- C. The city manager or any city council member may initiate a review of any proposed decision or final decision by the city manager by filing a written request at any time.

(Ord. 16-08 §1)

§ 10.32.017. Standards.

City traffic regulations shall be based on:

- A. Traffic engineering principles and traffic investigations;
- B. Standards, limitations, and rules promulgated by the Oregon Transportation Commission;
- C. Other recognized traffic control standards, including the Manual of Uniform Traffic Control Devices; and
- D. The professional judgment and discretion of the city manager or designee, including prioritization of city resources.

(Ord. 16-08 §1)

§ 10.32.030. Authority of Police and Fire Officers.

- A. It shall be the duty of the police department through its officers to enforce the provisions of Chapters 10.16 through 10.32.
- B. In the event of a fire or other emergency, or to expedite traffic, safeguard pedestrians, or prevent the impediment of traffic or parking circulation, officers of the police department may direct traffic, or impose temporary, emergency "no parking" zones as conditions may require, notwithstanding the provisions of Chapters 10.16 through 10.32. Temporary measures may not exceed 24 hours or the duration of the emergency, whichever is longer.
- C. Members of the fire department, when at the scene of a fire, may direct or assist the police in directing traffic thereat or in the immediate vicinity.
- D. Officers of the police department may issue citations for violations of Chapters 10.16 through 10.32 and Chapter 7.60. For the purposes of this section, "officers" includes police officers, reserve officers, non-sworn officers and community service officers.

(Ord. 70-41 Ch. 8 §3; Ord. 78-3 §7(b); Ord. 05-08 ; Ord. 16-08 §1)

§ 10.32.040. Stop When Traffic Obstructed.

No driver shall enter an intersection or a marked crosswalk unless there is sufficient space on the opposite side of the intersection or crosswalk to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles or pedestrians, notwithstanding any traffic-control signal indication to proceed.

(Ord. 70-41 Ch. 8 §4)

§ 10.32.050. Unlawful Marking.

Except as provided by Chapters 10.16 through 10.32, it is unlawful for any person to letter, mark, or paint in any manner any letters, marks, or signs on any sidewalk, curb or other portion of any street, or to post anything designed or intended to prohibit or restrict parking on any street.

(Ord. 70-41 Ch. 8 §5; Ord. 78-3 §7(b))

§ 10.32.060. Use of Sidewalks.

Pedestrians shall not use any roadway for travel when abutting sidewalks are available.

(Ord. 70-41 Ch. 8 §6)

§ 10.32.070. Permits Required for Parades.

No procession or parade, except a funeral procession, may occupy, march, or proceed along any street except in accordance with a permit issued pursuant to TMC 7.48.

(Ord. 70-41 Ch. 8 §7; Ord. 19-13 §1)

§ 10.32.080. Funeral Procession.

Vehicles in a funeral procession shall be escorted by at least one person authorized by the chief of police to direct traffic for such purposes and shall follow routes established by the chief of police.

(Ord. 70-41 Ch. 8 §8)

§ 10.32.090. Drivers in Procession.

Except when approaching a left turn, each driver in a funeral or other procession shall drive along the right-hand traffic lane and shall follow the vehicle ahead as closely as is practical and safe.

(Ord. 70-41 Ch. 8 §9)

§ 10.32.100. Driving Through Procession.

No driver of a vehicle shall cross through a procession except where traffic is controlled by traffic-control signals or when so directed by a Police Officer. This provision shall not apply to authorized emergency vehicles.

(Ord. 70-41 Ch. 8 §10)

§ 10.32.110. Emerging from Vehicle.

No person shall open the door of, or enter or emerge from any vehicle into the path of any approaching vehicle.

(Ord. 70-41 Ch. 8 §11)

§ 10.32.120. Boarding or Alighting from Vehicles.

No person shall board or alight from any vehicle while such vehicle is in motion.

(Ord. 70-41 Ch. 8 §12)

§ 10.32.130. Riding on Motorcycles.

A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is equipped to carry more than one person.

(Ord. 70-41 Ch. 8 §13)

§ 10.32.140. Unlawful Riding.

No person shall ride on any vehicle upon any portion thereof not designed or intended for the use of passengers. This provision shall not apply to an employee engaged in the necessary discharge of a duty, or to a person or persons riding within truck bodies in space intended for merchandise.

(Ord. 70-41 Ch. 8 §14)

§ 10.32.150. Clinging to Vehicles.

A. No person riding upon any bicycle, motorcycle, coaster, roller skates, sled or any toy vehicle shall attach the same or him or herself to any moving vehicle upon the streets.

B. No person driving any vehicle shall permit any of the articles listed in subsection A of this section to be attached to the vehicle for the purpose of pulling along the streets.

(Ord. 70-41 Ch. 8 §15; Ord. 16-08 §1)

§ 10.32.160. Use of Roller Skates Restricted.

No person upon roller skates, or riding in or by means of any coaster, toy vehicle or similar device, shall go upon any street except to cross at a crosswalk.

(Ord. 70-41 Ch. 8 §16)

§ 10.32.170. Skis on Streets.

No person on skis, toboggans, sleds or similar devices shall travel on any street.

(Ord. 70-41 Ch. 8 §17)

§ 10.32.175. Operation of Golf Carts and City of Tigard-Owned All-Terrain Vehicles (ATVs).

A. The Tigard City Council acknowledges that the use of golf carts on certain streets within Summerfield would be beneficial to the residents of Summerfield and would create no significant hazard to either the users of the golf carts or other traffic on the streets within Summerfield.

- B. Chapter 271, Section 4, of Oregon Laws 1975 authorizes the City Council of the City of Tigard to permit the operation of golf carts on public streets within the City of Tigard and to prescribe such rules and regulations for the operation of golf carts as may be necessary. Chapter 271, Oregon Laws of 1975, further defines golf carts, exempts them from registration and license as a motor vehicle, and sets forth certain limitations regarding the areas in which they can be used.
- C. Summerfield is a planned residential area qualifying as a real estate development under the terms of Chapter 271, Oregon Laws of 1975.
- D. Golf carts may be driven upon the streets in Summerfield during daylight hours for the purpose of moving the carts between the residences of their owners and operators and the recreational areas within Summerfield. Golf carts shall at all times be operated in a prudent manner, and shall be subject to the statutory laws of the State of Oregon and the ordinances of the City of Tigard with regard to the operation of vehicles, except such statutes and ordinances as cannot be complied with on account of differences in equipment required on golf carts as compared with ordinary passenger vehicles and trucks.
- E. Operation of golf carts shall be undertaken at the risk and responsibility of the owners and operators, and the City of Tigard by this section assumes no responsibility for the operation of the vehicles, and shall be held harmless in any action arising from the operation of golf carts on or off of any public way in Summerfield.
- F. Operation of City of Tigard-owned Class I all-terrain vehicles (ATVs) shall be allowed upon public roadways, streets, highways, parks, park trails and pathways and other related areas within the City of Tigard by the police and public works departments of the city. The operation of a Class I ATV is only permitted for on-duty City of Tigard personnel in the performance of their assigned duties.
- G. A City of Tigard-owned all-terrain vehicle (ATV) shall be defined as any Class I all-terrain vehicle as defined by ORS 801.190, and which is operated by on-duty police or public works personnel in the performance of their assigned duties.
- H. The City of Tigard shall post appropriate signage on city streets, highways, roadways or other points within the city limits, as now constituted or hereafter changed, to give notice to all persons that the operation of Class I ATVs is permitted within the city for on-duty police and public works personnel in the performance of their assigned duties.

(Ord. 76-42 §§1—5; Ord. 09-06 §1; Ord. 16-08 §1)

§ 10.32.190. Damaging Sidewalks and Curbs.

- A. The driver of a vehicle shall not drive upon or within any sidewalk or parkway area except to cross at a permanent or temporary driveway.
- B. A temporary driveway may be used only after first obtaining a written permit therefor from the city, who may impose such requirements as are necessary to protect the public improvements within the street at the temporary driveway.
- C. Any person who damages or causes to be damaged any public improvement within the street by driving a vehicle upon or within any sidewalk or parkway area shall be liable for such damage regardless of whether or not the damage resulted from the authorized use of a temporary driveway.

(Ord. 70-41 Ch. 8 §19; Ord. 16-08 §1)

§ 10.32.200. Obstructing Streets.

Except as provided by Chapters 10.16 through 10.32, or any other city ordinance, no person shall place, park, deposit or leave upon any street or other public way, sidewalk or curb, any article or thing or material which in any way prevents, interrupts, or obstructs the free passage of pedestrian or vehicular traffic, or obstructs a driver's view of traffic-control signs and signals.

(Ord. 70-41 Ch. 8 §20; Ord. 78-3 §7(b))

§ 10.32.205. Physical Erosion.

No person shall drag, drop, track or otherwise place or deposit, or permit to be deposited, mud, dirt, rock or other such debris upon a public street or into any part of the public storm and surface water system. Any such deposit of material shall be immediately removed using hand labor or mechanical means. No material shall be washed or flushed into any part of the storm and surface water system and any such action shall be an additional violation.

(Ord. 91-34 Exh. A)

§ 10.32.210. Removing Glass and Debris.

Any party to a collision or other vehicular accident, or any other person causing glass or other material or substance likely to injure any person, animal or vehicle to be upon any street in this city, shall as soon as possible remove or cause to be removed from such street all such glass or other material or substance.

(Ord. 70-41 Ch. 8 §21)

§ 10.32.220. Illegal Cancellation of Traffic Citations.

It is unlawful for any person to cancel or solicit the cancellation of any traffic citation in any manner except where approved by the municipal judge.

(Ord. 70-41 Ch. 8 §22)

§ 10.32.230. Tampering with Odometers Prohibited—Penalty.

Any person found guilty of violation of the provisions of ORS Section 646.860 shall be subject to the penalties prescribed by ORS Section 646.990, and said sections are by reference herein made a part hereof.

(Ord. 70-41 Ch. 8 §24; Ord. 72-22 §2)

§ 10.32.235. Use of Crosswalks—Jaywalking.

- A. No pedestrian may cross the street or roadway other than within a crosswalk if he or she is within 100 feet of a crosswalk.
- B. A pedestrian shall cross a street or a roadway at a right angle unless crossing within a crosswalk.
- C. For purposes of this section, "crosswalk" has the same meaning as found in Oregon Revised Statutes.
- D. A violation of any provision of this section is a Class D violation notwithstanding any other

provision in this chapter.
(Ord. 07-02 ; Ord. 16-08 §1)

§ 10.32.240. Existing Traffic Signs.

Except as the council may by resolution or ordinance change the traffic control regulations in accordance with the provisions of the ordinance codified in Chapters 10.16 through 10.32, all official traffic signs, signals and markers existing October 12, 1970, shall be considered official under the provisions of Chapters 10.16 through 10.32.

(Ord. 70-41 Ch. 8 §47; Ord. 78-3 §7(b))

§ 10.32.245. Crossing Private Property.

No operator of a vehicle shall proceed from one street to another street by crossing private property. This provision shall not apply to the operator of a vehicle who stops on the property for the purpose of procuring or providing goods or services.

(Ord. 83-49 §2; Ord. 84-07 §1)

§ 10.32.250. Penalties.

Violations of any provision of this chapter are a class B traffic infraction.

(Ord. 70-41 Ch. 8 §49; Ord. 78-3 §7(c))

CHAPTER 10.36 BICYCLES AND ELECTRIC PERSONAL ASSISTIVE MOBILITY DEVICES

§ 10.36.010. Definitions.

The following words or phrases, except where the context clearly indicates a different meaning, are defined as follows:

"Alley" means a narrow street through the middle of a block.

"Bicycle" means every device propelled by human power upon which any person may ride, having two tandem wheels either of which is over 12 inches in diameter.

"Highway, road and street" mean the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

"Park or parking" means the standing of a vehicle, whether occupied or not, except when a vehicle is temporarily standing for the purpose of and while actually engaged in loading or unloading.

"Parkway" means that portion of a street not used as a roadway or as a sidewalk.

"Person" means every natural person, firm, partnership, association or corporation.

"Roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel.

"Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

"Sidewalk" means that portion of a street between the curblines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

"Electric personal assistive mobility device" means a device that: (a) is self-balancing on two nontandem wheels; (b) is designed to transport one person in a standing position; (c) has an electric propulsion system; and (d) has a maximum speed of 15 miles per hour.

(Ord. 67-72 §1; Ord. 03-13)

§ 10.36.120. Racing on Public Ways—Permit Required.

No person may engage in, or cause others to be engaged in, any bicycle racing upon the streets or other public places in the City, except in accordance with a permit issued pursuant to TMC 7.48.

(Ord. 67-72 §12; Ord. 19-14 §2)

§ 10.36.130. Applicability of Traffic Laws.

Every person riding or operating a bicycle or electric personal assistive mobility device on a street or public path in the City shall be subject to all the provisions of the laws of the state of Oregon applicable to such operation and shall also be subject to all the provisions of this title and any other City ordinances applicable to such operation.

(Ord. 67-72 §13; Ord. 03-13)

§ 10.36.140. Lighting Requirements.

Every bicycle operated within the City at any time from a half hour after sunset to a half hour before sunrise, or at any other time that visibility is poor due to insufficient light or unfavorable atmospheric conditions, shall be equipped with a lamp on the front exhibiting a white light visible from a distance of at least five hundred feet to the front of such bicycle, and a red reflector on the rear of such size or characteristics and so mounted as to be visible at night from all distances within three hundred feet to fifty feet from the rear of such bicycle. A red light visible from a distance of five hundred feet to the rear may be used in addition to the rear reflector.

(Ord. 67-72 §14)

§ 10.36.150. Brake Requirements.

Every bicycle operated upon the City streets shall be equipped with brakes adequate to control the movement of and to stop and to hold such vehicle.

(Ord. 67-72 §15)

§ 10.36.160. Speed.

No person shall operate a bicycle at a speed greater than is reasonable and prudent under the conditions then existing.

(Ord. 67-72 §16)

§ 10.36.170. Rider—At Least One Hand on Handlebars.

No person operating a bicycle shall carry any package, bundle or article which prevents the rider from keeping at least one hand upon the handlebars and in full control of such bicycle.

(Ord. 67-72 §17)

§ 10.36.180. Parking Restrictions.

From and after December 18, 1967, it is unlawful for any person to park or leave a bicycle upon the sidewalk within the City; except in areas designated by ordinance, which areas shall be properly marked by signs or painting and provided with racks for parking bicycles.

(Ord. 67-72 §18)

§ 10.36.190. Violation—Permitting or Authorizing Prohibited.

No parents of any minor child and no guardian of any minor ward shall authorize or knowingly permit any such minor child or ward to violate any of the provisions of this chapter.

(Ord. 67-72 §19)

§ 10.36.200. Violation—Penalty.

A violation of any provision of this chapter is a Class D traffic violation.

(Ord. 67-72 §20; Ord. 03-13)

CHAPTER 10.50 MOVING OF OVERSIZE LOADS

§ 10.50.010. Title.

This chapter shall be known as the "moving of oversize loads ordinance" and may also be referred to herein as "this chapter."

(Ord. 90-18 §1)

§ 10.50.020. Definitions.

For the purposes of this chapter, the following mean:

Building. "Building" means any structure used or intended for sheltering any use or occupancy.

Building Official. "Building Official" means the designee or designees appointed by the Director of Community Development who is responsible for the building inspections and enforcement of the building code.

City Engineer. "City Engineer" means the City Engineer or the City Engineer's designee.

Street. "Street" means any highway, road, street or alley as defined in ORS 487.005(1) and (8).

Structure. "Structure" means that which is built or constructed, an edifice or building of any kind, or piece of work artificially built up or composed of parts joined together in some definite manner.

Chief of Police. "Chief of Police" means the designee appointed by the City Manager who is responsible for the administration of the police department and may also be referred to herein as "Chief."

Oversize Load. "Oversize load" means any building, structure or commodity which is to be moved along any city street upon a flatbed truck, trailer, dollies or similar vehicles, which has a loaded width exceeding eight feet and/or a loaded length exceeding fifty feet total, and/or a loaded height exceeding fourteen feet pursuant to ORS 818.080.

(Ord. 90-18 §1; Ord. 03-08)

§ 10.50.030. Permit Required.

1. No person shall move an oversize load across or along a street without first applying for and obtaining a permit under this chapter.
2. No person shall move an oversize load across or along a street in violation of a provision of this chapter or of the provisions of the permit issued under this chapter.

(Ord. 90-18 §1)

§ 10.50.040. Permit Application—Fee.

1. Application for a permit to move an oversize load shall be made to the Building Official on forms provided by the Building Official and shall include the following information:
 - a. The name and address of a person who owns the oversize load;
 - b. The name and address of a person engaged to move the oversize load;

- c. The location from which the oversize load is proposed to be moved;
 - d. The proposed new site of the oversize load and its zoning classification (if in the City);
 - e. The proposed route for moving the oversize load;
 - f. The dimensions, type of construction and approximate age of the oversize load;
 - g. The use or purpose for which the oversize load was designed;
 - h. The use or purpose to be made of the oversize load at its new location (if in the City);
 - i. The proposed moving date and hours of moving;
 - j. Any additional information the Building Official considers necessary for a fair determination of whether the permit should be issued.
2. In situations where the City's design review standards apply, the applicant shall also make application and submit all necessary information for design review approval.
 3. An application shall be signed by the owner of the oversize load to be moved or by the person engaged to move the building.
 4. A fee shall be paid prior to the issuance of a permit. The fee shall be set by resolution of the City Council. Should it be necessary for the City to provide any assistance in the moving of an oversize load, the applicant shall pay an amount equal to the cost of labor and/or materials, or any other cost incurred by the City. These fees, pursuant to this section may be amended by the City Council by resolution.

(Ord. 90-18 §1)

§ 10.50.050. Permit for Moving or Relocating a Building onto a Lot.

The movement or relocation of any building or structure (which would otherwise require the issuance of a building permit), within or into the City, to be placed on a lot within the City, shall in addition to the provisions of this chapter, comply with Chapter 14.20.

(Ord. 90-18 §1)

§ 10.50.060. Protection of Public and Private Property and Utilities.

1. The issuance of an oversize load permit is not an approval to remove, alter, interfere or endanger any public or private property, or utility without first having obtained in writing, the permission of the property owner(s), utility, or public entity to do so.
2. The applicant shall have made arrangements to the satisfaction of the owner(s), utility or public entity for protecting the installations or property, paying for whatever damage the moving causes them, and for reimbursing the owner(s), utility or public entity for any costs of removal and reinstallation of the property that the move necessitates.

(Ord. 90-18 §1)

§ 10.50.070. Certificate of Insurance.

A permit shall not be issued until the applicant furnishes proof of liability insurance with a surety

company authorized to do business in this state, for the purposes of moving oversize loads, in an amount and form approved by the Building Official.

(Ord. 90-18 §1)

§ 10.50.080. Permit Issuance Conditions.

The Building Official shall issue the permit subject to any necessary conditions if:

1. The application complies with the requirements of this chapter;
2. The moving can be accomplished without damage to property, or in case of damage to the property, it is consented to by the owner of the property or is to be paid for to the owner's satisfaction;
3. The building at its new site, if within the City, will conform to the requirements of the community development code;
4. All requirements of the building code ordinance (Chapter 14.04) have been complied with;
5. The applicant shall be responsible for notifying the police department, fire department, and all other affected agencies not less than that required by the agency, but not less than forty-eight hours prior to commencement of the move;
6. No move shall begin before nine a.m. on weekdays and must be completed by three p.m. on all days.

(Ord. 90-18 §1; Ord. 01-17)

§ 10.50.090. Permit Contents.

The permit shall specify:

1. The route for moving the oversize load;
2. The dates and times within which the moving is to be completed;
3. Whatever additional conditions the Building Official considers necessary to satisfy ordinance requirements, to minimize the obstruction of traffic to protect property, and to protect the public safety and welfare.

(Ord. 90-18 §1)

§ 10.50.100. Permit Revocation.

The Building Official may refuse to issue a permit or may revoke a permit issued under this chapter if:

1. The permittee violates or cannot meet a requirement of the permit or a section of this chapter;
2. Grounds, such as a misstatement of fact exist for revocation, suspension or refusal to issue the permit.

(Ord. 90-18 §1)

§ 10.50.110. Liability.

The permit shall not constitute an authorization for damaging property. The permit shall not constitute a defense against any liability the permittee incurs for personal injury or property damage caused by the moving.

(Ord. 90-18 §1)

§ 10.50.120. Protection of Streets and Property.

Equipment used to move oversize loads along or across the public streets of the City shall be equipped with pneumatic tires, which shall be the only part of the equipment to come in to contact with the surfaces of the streets, except planking as required by the City Engineer. The City Engineer may require the permittee to proceed on planking of specified dimensions when the City Engineer considers the planking necessary to prevent damage to a public street or other property.

(Ord. 90-18 §1)

§ 10.50.130. Project to Continue Uninterrupted.

Once an oversize load has been moved onto a public street under a permit authorized by this chapter, the person moving the oversize load shall continue with the moving project without interruption until it is completed, except as the permit for the moving of the oversize load specifically allows to the contrary.

(Ord. 90-18 §1)

§ 10.50.140. Cleanup.

A person moving an oversize load under a permit authorized by this chapter shall promptly remove from the public streets and private property all litter produced by the moving.

(Ord. 90-18 §1)

§ 10.50.150. State Highway/County Road Use.

The Building Official may waive any of the requirements of this chapter regarding oversize loads to be moved through the City upon a county road or state highway from and to points outside the city limits if:

1. Movement will be made pursuant to a permit issued by the appropriate state agency;
2. Notice of the proposed movement and a copy of the permit is submitted to the Building Official before the movement; and
3. The Building Official is satisfied that adequate precautions have been taken to protect the public safety and welfare.

(Ord. 90-18 §1)

§ 10.50.160. Moving Oversize Loads on Same Property.

Section 10.50.030 shall not apply when an oversize load is moved on the same or private property, or along a private street not controlled or maintained by the City, except that Section 10.50.050 shall apply in all cases.

(Ord. 90-18 §1)

§ 10.50.170. Violation—Penalty.

Violation of this chapter (except for Section 10.50.050) shall constitute a Class I infraction and shall be processed in accordance with the civil infractions ordinance, codified in Chapter 1.16 of this code.

(Ord. 90-18 §1)

HEALTH AND SAFETY

Title 11**HEALTH AND SAFETY**

Chapter 11.04 SOLID WASTE MANAGEMENT	§ 11.04.175. Temporary Compliance Waivers to Covered Businesses.
§ 11.04.010. Title for Citation.	§ 11.04.180. Rules and Regulations Applicable to Franchisees.
§ 11.04.020. Purpose, Policy and Scope of Chapter Provisions.	§ 11.04.185. Administrative Rules.
§ 11.04.030. Definitions.	§ 11.04.190. Enforcement.
§ 11.04.040. Franchise—Granted to Certain Persons—Scope of Regulations.	§ 11.04.195. Penalty.
§ 11.04.050. Franchise—Term—Automatic Renewal When.	Chapter 11.08 ALARM SYSTEMS
§ 11.04.060. Franchise—Fees.	§ 11.08.000. Title.
§ 11.04.065. Franchises Records.	§ 11.08.010. Purpose.
§ 11.04.070. Responsibility of Franchisee.	§ 11.08.020. Definitions.
§ 11.04.080. Franchise—Transfer, Suspension, Modification or Revocation—Conditions.	§ 11.08.030. Alarm Permit Required.
§ 11.04.090. Rates for Service.	§ 11.08.040. Emergency Notification.
§ 11.04.100. Container Requirements and Collection Limitations.	§ 11.08.050. Protective Sweep.
§ 11.04.105. Stationary Solid Waste Compactors.	§ 11.08.060. Nuisance Alarms.
§ 11.04.110. Offensive Wastes Prohibited.	§ 11.08.070. Delinquent Application.
§ 11.04.120. Unauthorized Deposits Prohibited.	§ 11.08.080. Governmental Unit.
§ 11.04.130. Interruption of Franchisee's Service.	§ 11.08.090. User Instructions Required.
§ 11.04.140. Termination of Service by Franchisee.	§ 11.08.100. Auto Dialing Devices.
§ 11.04.150. Subcontracts.	§ 11.08.110. Enhanced Call Verification.
§ 11.04.155. Business Recycling Requirement.	§ 11.08.120. Equipment Standard.
§ 11.04.160. Business Food Waste Requirement.	§ 11.08.130. Government Immunity.
§ 11.04.165. Business Food Waste Rules and Regulations.	§ 11.08.140. False Alarm Fees.
§ 11.04.170. Business Food Waste Compliance Periods.	§ 11.08.150. Penalties.
	Chapter 11.10 THEATER REGULATIONS
	§ 11.10.010. Purpose.
	§ 11.10.020. Definitions.
	§ 11.10.030. Regulations.

CHAPTER 11.04 SOLID WASTE MANAGEMENT

§ 11.04.010. Title for Citation.

The ordinance codified in this chapter shall be known as the "City of Tigard solid waste management ordinance," and may be so cited and pleaded, and shall be cited herein as "this chapter."

(Ord. 78-64 §1; Ord. 91-36 §1)

§ 11.04.020. Purpose, Policy and Scope of Chapter Provisions.

A. It is declared to be in the public interest for the City of Tigard to establish this policy relative to the matters of solid waste management to:

1. Provide sufficient waste volume to sustain solid waste management facilities necessary to achieve resource recovery goals established by the city, county, State Department of Environmental Quality, and metropolitan service district;
2. Provide the basis for agreements with other governmental units and persons for regional flow control to such facilities;
3. Insure safe accumulation, storage, and collection, transportation, disposal or resource recovery of solid waste;
4. Insure maintenance of a financially stable, reliable solid waste collection and disposal service;
5. Insure rates that are just, fair, reasonable and adequate to provide necessary service to the public;
6. Prohibit rate preference and other discriminatory practices which benefit one customer at the expense of other customers of the service or the general public;
7. Conserve energy and material resources;
8. Eliminate overlapping service to reduce truck traffic, street wear, air pollution and noise;
9. Provide standards for solid waste service and public responsibilities;
10. Provide technologically and economically feasible recycling by and through solid waste collectors; and
11. Comply with the business recycling requirement set forth in Metro Regional Government Code Chapter 5.10.330.

B. No person shall:

1. Provide service, offer to provide service or advertise for the performance of service without having obtained a franchise from the city;
2. Accumulate, store, collect, transport, dispose of or resource recover solid waste except in compliance with this chapter, other city codes, and Chapter 459, Oregon

Revised Statutes, dealing with solid waste management and regulations and amendments promulgated under any of the foregoing.

(Ord. 78-64 §2; Ord. 91-36 §1; Ord. 09-05 §1)

§ 11.04.030. Definitions.

"Business" means any entity of one or more persons, corporate or otherwise, engaged in commercial, professional, charitable, political, industrial, educational, or other activity that is non-residential in nature, including public bodies.

"Business food waste" means solid waste consisting of food waste removed from the food supply chain that is not fit for human or animal consumption.

"Business recycling service customer" means a person who enters into a service agreement with a waste hauler or recycler for business recycling services.

"Compactor" means a stationary or self-contained powered machine which remains stationary when in operation with operating controls designed to compact solid waste from multifamily residential, industrial or commercial customers into either a detachable or integral container. The term "compactor" does not include a household, mechanical device located within a residential dwelling, which is used exclusively by the occupants of that dwelling. The term "compactor" does not include any mechanical device used by a franchisee which is attached to the franchiser's mobile collection vehicle.

"Council" means the City Council of the City of Tigard.

"Covered business" means a business that cooks, assembles, processes, serves, or sells food.

"Curbside" means solid waste receptacles placed by the customer for pickup within five feet of a public roadway or at a location approved by the franchisee.

"Customer" means any person who receives service from a franchisee or permittee.

"Franchise" means the right to provide service granted to a person pursuant to this chapter.

"Person" means any individual, partnership, association, corporation, business, trust, firm, estate, joint venture or other public or private legal entity.

"Placed out for collection" means solid waste has been placed by the customer for service by the franchisee under the requirements of this chapter.

"Putrescible material" means organic materials that can decompose and may give rise to foul-smelling, offensive odors or products.

"Recycling" means any process by which solid waste materials are transformed into new products in such a manner that the original products lose their identity.

"Resource recovery" means the process of obtaining useful material or energy resources from solid waste and including energy recovery, materials recovery, recycling and reuse of or from solid waste.

"Reuse" means the return of a commodity into the economic stream for use in the same kind of application as before without a change in its identity.

"Service" means the collection, transportation, storage, transfer, disposal of or resource recovery of solid waste, including solid waste management.

"Solid waste" means all putrescible and nonputrescible wastes, including, but not limited to,

garbage, rubbish, refuse, ashes, wastepaper and cardboard; residential, commercial, industrial, demolition and construction wastes; discarded home and industrial appliances; vegetable or animal solid and semisolid wastes; dead animals, infectious wastes as defined in ORS 459.387, and other wastes.

1. For the purpose of this subsection, "waste" means any material that is no longer wanted by or is no longer usable by the generator, producer or source of the material, which material is to be disposed of or to be resource-recovered by another person. The fact that materials, which would otherwise come within the definition of "waste," may from time to time have value and thus be resource-recovered does not remove them from this definition. Source-separated wastes are "wastes" within this subsection.
2. The term "solid waste" does not include any "hazardous waste" as defined by or pursuant to ORS Chapter 466.

"Solid waste management" means the prevention or reduction of solid waste; management of the storage, transfer, collection, transportation, treatment, utilization, processing and final disposal of solid waste; or resource recovery from solid waste; and facilities used for those activities.

"Source separate" means the customer separates recyclable material from solid waste.

(Ord. 78-64 §3; Ord. 91-36 §1; Ord. 09-05 §1; Ord. 19-06 §1)

§ 11.04.040. Franchise—Granted to Certain Persons—Scope of Regulations.

- A. Subject to the provisions of this section, this chapter, the City Charter, and any amendments to these documents, there is hereby granted to the following persons an exclusive franchise to provide service within the exclusive area shown within a map of existing franchised areas on the effective date of the ordinance codified in this chapter, which map is attached hereto, marked "Exhibit A," and by reference is incorporated in this section.
- B. The franchisees are:
 1. Area I. Pride Disposal Company, P.O. Box 820, Sherwood, OR 97140.
 2. Area II. Waste Management, 7227 NE 55th Avenue, Portland, Oregon 97218.
 3. Area III. Pride Disposal Company, P.O. Box 820, Sherwood, OR 97140.
- C. Where any area is annexed to the City of Tigard and the area had been franchised by Washington County for solid waste collection service prior to annexation, the county franchise shall be recognized as to the area; but service, term and other requirements shall be those of this chapter. If the area was franchised to any of those listed in subsection B of this section, the area shall be added by the City Manager by amendment to "Exhibit A." For persons other than those listed in subsection B of this section, an acceptance of franchise must be signed and recorded as provided in Section 11.04.070 of this chapter.
- D. Nothing in this franchise or this section shall:
 1. Prohibit any person from collecting or transporting any waste, produced by that person, from the site at which it is produced, in a vehicle with a gross vehicle axle weight rating of no more than ten thousand pounds directly to an authorized disposal or recycling or resource recovery facility or resource recovering waste produced by that person, so long as that person complies with this chapter, other city ordinances,

and Chapter 459 Oregon Revised Statutes, dealing with solid waste management, and regulations promulgated under any of the foregoing. For purposes of this subsection, solid waste produced by a tenant, licensee, occupant or similar person is produced by such person and not by the landlord, property owner or agent of either the landlord or property owner, and except as provided in this section, no person shall provide services to any tenant, lessee or occupant of any property of such person, and the landlord or property owner shall provide service through the franchisee. The vehicle weight limitation in this paragraph does not apply to the transportation of any material authorized by another subdivision of this subsection D.

- a. As of the effective date of the ordinance codified in this chapter, any person collecting or transporting any waste, produced by that person, using a vehicle rated at more than 10,000 gross vehicle axle weight will be using a nonconforming vehicle. In order to avoid undue hardship, any person using a nonconforming vehicle for collection and transport of any waste produced by that person at the time of enactment of the ordinance codified in this chapter, may be allowed continued use of the vehicle under the following conditions:
 - i. A person must provide the following information to the city no later than January 31, 1992:
 - (A) Owner's name, address and phone number;
 - (B) Each vehicle identification number;
 - (C) Site(s) at which waste is collected; and
 - (D) Type of operation(s) which is producing the waste.
 - ii. The City Manager, or designee, shall grant the request for nonconforming use status based on the following criteria:
 - (A) The information was postmarked no later than January 31; and
 - (B) Vehicle, location and type of operation was in operation on January 16, 1992.
- b. It is the purpose and intent of this subparagraph to permit the nonconforming use status to continue until January 31, 1999, after which time use of a vehicle with a gross vehicle axle weight rating of more than 10,000 pounds for the collection and transport of any waste produced by that person shall be prohibited. The site where the waste is produced may be changed; however, the vehicle(s) and the type of operation(s) must remain the same or the exemption provided in this subparagraph shall not apply. There shall be no transfer or expansion of the exemption to use a vehicle with a gross vehicle axle weight rating of more than 10,000 pounds.
2. Prohibit a generator of source separated recyclable material from selling or exchanging such material to any person for fair market value for recycling or reuse.
3. Prohibit any person from transporting, disposing of or resource recovering, sewage sludge, septic pumpings and cesspool pumpings.

4. Prohibit any person licensed as a motor vehicle wrecker under ORS 481.345 et seq., from collecting, transporting, disposing of or utilizing motor vehicles or motor vehicle parts.
5. Prohibit the City Council from withdrawing certain solid waste services by amendment to this chapter on the basis of a finding that such regulation is not necessary for the implementation of the purposes of this chapter or a city, county or metropolitan service district solid waste management plan.
6. Prohibit any person transporting solid waste through the city that is not collected within the city.
7. Prohibit a contractor registered under ORS Chapter 701 from hauling waste created in connection with the demolition, construction, or remodeling of a building or structure or in connection with land clearing and development. Such waste shall be hauled in equipment owned by the contractor and operated by the contractor's employees.
8. Prohibit the collection, transportation and reuse of repairable or cleanable discards by private charitable organizations regularly engaged in such business or activity including, without limitation, Salvation Army, Goodwill, St. Vincent de Paul, and similar organizations.
9. Prohibit the operation of a fixed location where the generator, producer, source or franchised collector of solid waste brings that waste to a fixed location for transfer, disposal or resource recovery; provided, however, that the establishment or maintenance of any such location brought into being after April 1, 1978, shall be only by permit issued by the City Manager.
10. Prohibit the collection, transportation or redemption of beverage containers under ORS Chapter 459.
11. Prohibit a person from transporting or disposing of waste that is produced as an incidental part of the regular carrying on of the business of janitorial service; gardening or landscaping service; or rendering. (These sources do not include the collection, transportation or disposal of accumulated or stored wastes generated or produced by other persons.)
12. Require franchisee to store, collect, transport, dispose of or resource recover any hazardous waste as defined by or pursuant to ORS Chapter 466; provided, however, that franchisee may engage in a separate business of handling such wastes separate and apart from this franchise and chapter.
13. Prohibit a nonprofit charitable, benevolent or civic organization from recycling solid waste; provided, that such collection is not a regular or periodic business of such organization. The organizations shall comply with all applicable provisions of this chapter.
14. Prohibit any municipal corporation, special district, state or federal governmental entity from accumulating, storing, collecting, transporting, disposing or resource recovering solid waste generated from or by the operations of those entities as long as the entity complies with this chapter, other city ordinances, and Chapter 459 Oregon

Revised Statues, dealing with solid waste management, and regulations promulgated under any of the foregoing.

- E. Where a permit is required from the City Manager, it shall be issued only upon a finding that the service is needed, has not been provided by the franchisee or, in the case of fixed base facilities, by other persons. The City Manager shall give due consideration to the purposes of this chapter. He or she may attach such conditions as he/she determines are necessary to obtain compliance with this chapter and may restrict the term of such permit. The permittee will comply with all applicable provisions of this chapter.
- F. Solid waste placed out for collection, whether or not source-separated, belongs to the franchisee when so placed; or, where placed out for collection by a permittee, belongs to the permittee.
- G. No person shall deposit material in or remove material from any drop box or container supplied by a franchisee without permission of franchisee.
- H. No person shall take or remove any solid waste placed out for collection by a franchisee or permittee under this chapter.
- I. Notwithstanding other provisions of this section, if the council finds that on-route recycling is technologically and economically feasible and directs that it be instituted:
 - 1. Franchisees shall be given advance notice of a hearing on the subject and an opportunity to be heard.
 - 2. If, after the hearing and on the basis of written findings, the council directs the service be provided, the franchisees shall be given a reasonable opportunity to provide the service or subcontract with other persons to provide it.
 - 3. If franchisees do not provide the service within the specified reasonable time, the council may issue a franchise or franchises for that service and limited to on-route recycling. A franchisee under this subsection I shall comply with all applicable requirements of this chapter.
 - 4. Nothing in this subsection shall prevent the franchisees from instituting on-route recycling prior neither to a council determination nor from including income and expense in the rate justification section.
 - 5. Section 11.04.070.A.10 requires franchisees to provide the opportunity to recycle, to include on-route recycling, in accordance with applicable law. This subsection is intended to provide a process by which the council may create on-route recycling requirements in addition to those found in other applicable law.

(Ord. 78-64 §4; Ord. 86-66 §§1, 2; Ord. 91-36 §1; Ord. 99-03 ; Ord. 99-18 ; Ord. 03-08 ; Ord. 15-10 §1)

§ 11.04.050. Franchise—Term—Automatic Renewal When.

- A. The rights, privileges and initial-franchise granted herein shall continue and be in full force to and including the 31st day of December, 1988, subject to terms, conditions and payment of franchise fees to the city as set forth in this chapter.
- B. Unless the council acts to terminate further renewals of the franchises herein granted: each

January 1st, the franchises are automatically renewed for a term of 10 years from the January 1st renewal; on January 1, 1993, the franchises are automatically renewed for term of nine years; on January 1, 1994, the franchises are automatically renewed for a term of eight years; and, on January 1, 1995, and on each January 1st thereafter, the franchises are automatically renewed for a term of seven years from the January 1st renewal.

(Ord. 78-64 §5; Ord. 91-36 §1; Ord. 92-36 §1)

§ 11.04.060. Franchise—Fees.

- A. As compensation for the franchise granted to each franchisee and for the use of city streets, the franchisee shall pay to the city a fee, the amount of which is contained in the master fee resolution in effect at the time the franchise agreement is adopted. Such fees shall be computed on a quarterly basis and paid within 30 days following the end of each quarter calendar year period. Each franchisee shall maintain an adequate bookkeeping system showing the gross cash receipts resulting from the solid waste services conducted under the franchise. Records shall be open at all times for audit by authorized personnel designated by the City Manager.
- B. Willful misrepresentation of gross cash receipts by a franchisee shall constitute cause for immediate revocation of the franchise, pursuant to Section 11.04.080 of this chapter.
- C. The franchise fee shall be in lieu of any business license or regulatory fee or tax, but shall not be in lieu of any ad valorem tax, imposed by the City of Tigard.

(Ord. 78-64 §6; Ord. 02-05 ; Ord. 03-08)

§ 11.04.065. Franchises Records.

- A. Franchisee shall keep accurate books and records related to all solid waste activities. Such books and records shall be open to inspection by the city, its attorney, or other authorized agent at any time during the franchisee's business hours.
- B. The city may audit or review the books and records as it deems necessary. Information obtained from such audits or reviews may be used to determine the amounts due to the city under the provisions of this franchise agreement. Such information may also be used by the city to determine costs of particular services, to determine changes to the schedule of solid waste rates, or for any other regulatory purpose related to the administration of this chapter. The city shall maintain the confidentiality of such records to the extent allowed by the Oregon Public Records Law. However, the city may provide information obtained pursuant to this franchise to other governmental agencies involved in the regulation of the provision of solid waste services. If such information is shared, the city shall, prior to delivery of the information, receive a written assurance from the receiving agency that the confidentiality of the information shall be maintained to the extent allowed by the Oregon Public Records Law.

(Ord. 91-36 §1)

§ 11.04.070. Responsibility of Franchisee.

- A. The franchisees shall:
 - 1. Resource-recover or dispose of wastes collected at sites approved by the city that are in compliance with Chapter 459, Oregon Revised Statutes and regulations

promulgated thereunder.

2. Provide and keep in force public liability insurance, with a 30-day cancellation clause, with a combined single limit of \$1 million, relating to a single occurrence, which shall be evidenced by a certificate of insurance filed with the City Recorder. The city shall be named as an additional named insured on the policy. The insurance shall indemnify and save the city harmless against liability or damage which may arise or occur from any claim resulting from the franchisee's operation under this chapter. In addition, the policy shall provide for the defense of the city for any such claims.
3. Furnish sufficient collection vehicles, containers, facilities, personnel, finances and scheduled days for collections in each area of the city necessary to provide all types of service required under this chapter or subcontract with others to provide such service pursuant to this chapter.
4. Provide a cash security deposit or a performance bond in the amount of \$5,000 to guarantee payment to the city or other affected person of a judgment secured against the franchise holder because of work performed that does not conform to the requirements of this chapter or other ordinances of the city. The deposit or bond shall continue until one year after expiration of the franchise, or until all claims or demands made against the franchisee have been settled or secured.
5. Collect no single-family residential solid waste before 5 a.m. or after 7 p.m. unless this condition is waived by the City Manager or designee.
6. Provide collection and disposal of solid waste from all city facilities, city parks, city sidewalk containers and city activity areas at no cost to the city on a regular schedule.
7. Make collection no less often than once each week, except for will-call collections and drop box operations, and except as provided in Section 11.04.140.
8. Permit inspection by the city of the franchisee's facilities, equipment and personnel at reasonable times.
9. Respond to all calls for special hauling requiring equipment regularly supplied by franchisee within 96 hours of receiving said call unless a later pickup is agreeable to the customer. Special hauling of containers or drop boxes supplied by franchisee is dependent upon availability of those containers or boxes.
10. Provide the opportunity to recycle to all residential, commercial and industrial sources of recyclable material in compliance with state and local laws and regulations including, without limitation, this chapter, other provisions of the city code, applicable metropolitan service district and State Department of Environmental Quality rules and regulations and the Oregon Recycling Opportunity Act (Chapter 729, Oregon Laws 1983). The opportunity to recycle shall include on-route or depot collection of source-separated recyclable material, a public education and promotion program that encourages participation in recycling, and notification to all customers of the opportunity and terms of recycling service. In addition, the franchisee shall provide regular opportunities for disposal of nonputrescible waste, yard debris, discarded appliances and other waste and shall comply with state and local laws and regulations adopted from time to time for the specific waste materials.

- B. A franchisee may require a contract from a customer who requires an unusual service involving added or specialized equipment solely to provide that service. The purpose of this subsection is to prevent the added cost from being assessed against other ratepayers if the customer later withdraws from service.

(Ord. 78-64 §7; Ord. 91-36 §1; Ord. 03-08)

§ 11.04.080. Franchise—Transfer, Suspension, Modification or Revocation—Conditions.

- A. The franchisees shall not transfer this franchise or any portion thereof to other persons without 60 days' prior written notice of intent and the subsequent written approval of City Council, which consent shall not be unreasonably withheld. The City Council shall approve the transfer if the transferee meets all applicable requirements met by the original franchisees. A pledge of this franchise as financial security shall be considered as a transfer for the purposes of this subsection. The City Council may attach whatever conditions it deems appropriate to guarantee maintenance of service and compliance with this chapter.
- B. Failure to comply with a written notice to provide the services required by this chapter or to otherwise comply with the provisions of this chapter after written notice and a reasonable opportunity to comply shall be grounds for modification, revocation or suspension of franchise.
1. After written notice from the City Council that such grounds exist, franchisee shall have 30 days from the date of mailing of the notice in which to comply or to request a public hearing before the City Council.
 2. If franchisee fails to comply within the specific time or fails to comply with the order of the City Council entered upon the basis of written findings at the public hearing, the City Council may suspend, modify or revoke the franchise or make such action contingent upon continued noncompliance.
 3. At a public hearing, franchisee and other interested persons shall have an opportunity to present oral, written or documentary evidence to the City Council. The finding of the City Council thereon shall be conclusive; provided, however, that such action may be reviewed by a court on a writ of review.
 4. In the event that the City Council finds an immediate and serious danger to the public through creation of a health or safety hazard, it may take action to alleviate such condition within a time specified in the notice to the franchisee and without a public hearing prior to taking such action.
- C. The city or any one of the franchisees may propose amendments to this franchise. Proposed amendments shall be in writing and delivered to the City Manager and the franchisees. The City Manager shall present the proposed amendments to the solid waste advisory committee ("committee") or a similar committee approved by the City Council. The committee shall review the proposed amendments and make a recommendation to the City Council. The committee may hold public hearings, obtain additional information, negotiate and undertake other activities to prepare a recommendation to the City Council. Both the City Manager, or designee, and the franchisees shall be invited to attend meetings of the committee to comment on the proposed amendments and be otherwise available as resources to the committee. After review of the proposed amendments to the franchise, the City Council may, after public hearing, adopt the amendments. After adoption by the City

Council, the franchisees may sign an acceptance of the amendments; however, when the amendment is adopted pursuant to subsections 11.04.020.A.1, A.2, A.9, and B.2, 11.04.040.D.5 and I, and 11.04.080.A and B, the franchisees shall sign an acceptance of the amendment. The franchise shall be amended upon acceptance of the amendments by the franchisees.

(Ord. 78-64 §9; Ord. 91-36 §1; Ord. 03-08)

§ 11.04.090. Rates for Service.

- A. The rates to be charged to all persons by the franchisee shall be reasonable, uniform, and based upon the level of service rendered or required by state or local laws or regulations, haul distance, concentration of dwelling units and other factors which the City Council considers to justify variations in rates that outweigh the benefits of having a single rate structure unless otherwise noted in this chapter.
- B. Nothing in this section is intended to prevent:
 1. The reasonable establishment of uniform classes of rates based upon length of haul; type of waste stored, collected, transported, disposed of, salvaged or utilized; or the number, type and location of customer's service, or the type of services; the service required by laws and regulations; or upon other factors as long as such rates are reasonably based upon the cost of the particular service and are approved by the City Council in the same manner as other rates;
 2. The franchisee from volunteering service at reduced cost for a civic, community, benevolent or charitable program.
- C. Rates to be charged by the franchisees under this chapter shall be set by the City Council by resolution as deemed necessary by the council; except, changes in charges to the franchisees for solid waste disposal site fees and other similar charges directly related to the transportation and disposal of solid waste, imposed by a governmental agency shall be included in the rates, provided such changes are evenly distributed among the rates. The franchisees shall provide 60 days' written notice with accompanying justification for all other proposed rate changes. The council shall give due consideration to the purposes of this chapter and the annual report filed by the franchisees in evaluating the proposed rate changes.
- D. The franchisee shall be provided with 30-day prior written notice with accompanying justification for a city-initiated reduction in rate schedule.
- E. Unless a governmental unit or legislative body has raised or lowered the cost of providing service or there is a substantial increase in the cost of doing business that was not provided for in the previous rate adjustment, rate adjustments shall be made annually on the following schedule:
 1. On or before March 15th, the franchisee shall file an annual report, in a form required by administrative rule, with the City Recorder for the year ending the previous December 31st.
 2. The City Manager shall report to the council by April 15th on the franchisee reports and propose rate adjustments, if any. The City Manager may make such recommendations as appropriate to the rate determination. A copy shall be delivered

to each franchisee.

3. The council may set a hearing on any proposed rate adjustment.
 4. Unless there is good cause shown and recorded in the minutes of the council, the council shall act upon any rate adjustment during consideration of the master fees and charges as part of the annual budget process. Adjustment of the rates can fall under the following categories:
 - a. If the aggregate profit for all waste haulers is less than eight percent or more than 12% then the city will undertake a rate study to recommend new rates. The new rates will be effective on July 1st and will be intended to produce an aggregate rate of return of 10% for the following calendar year. When rates are set in the middle of a calendar year, the expected aggregate rate of return for the haulers during that calendar year shall be reported to the haulers. So long as the actual aggregate rate of return for that calendar year is within two percent more or less than the reported aggregate rate of return, no rate study will be needed based on that calendar year's report.
 - b. If the aggregate profit for all waste haulers is between eight and 12%, the rates will be adjusted annually with a start date of January 1st indexed to the U.S. Department of Labor, Bureau of Labor Statistics CPI-U Over-the-Year Percent Change Annual Average for Portland-Salem. If the aggregate profit is between eight to nine percent, then 1.25 times the index will be applied. If the aggregate profit is from nine to 11%, then the index will be applied. If the aggregate profit is between 11% to 12%, then 0.75 times the index will be applied.
 5. The reports are required from each franchisee regardless of whether or not a rate adjustment is requested.
 6. Cost of service studies will be conducted at a minimum of every six years.
- F. Emergency rates or an interim rate for a new or altered service may be set by the City Manager; provided, however, that an emergency or interim rate is not valid for more than six months from the effective date. The City Manager shall report any emergency or interim rate adopted together with justification to the council for action by resolution and order, if the rate is to continue for more than six months.
- G. Rates established by the council are fixed rates and the franchisee shall not charge more or less than the fixed rate unless pursuant to subsection B.2 of this section.
- H. Nonscheduled services shall be charged at the reasonable cost of providing the service taking into consideration the factors in subsections B and C of this section and as determined by franchisee.
- I. In establishing rates, the council may set uniform rates, uniform rates by zone and different rates for collectors where there is a service and cost justification.
- J. Until changed by the council, rates to be charged are those in effect on the effective date of the ordinance codified in this chapter.
- K. If approved in a rate schedule, a "start charge" for new service and a "restart charge" for reinstated service may be added.

- L. Franchisees may request and the council shall schedule a public hearing on the application for adjustment or action of the council where no public hearing has been held prior to rate determination.
 - M. Franchisee may require payment for residential and multifamily residential service up to three months in advance, and may bill up to three months in advance, arrears or any combination. Where billed in advance, franchisee will refund a prorated portion of the payment for any complete months in which service is not to be provided. Where billed in advance, no rate adjustment shall be effective until the end of the advance payment.
 - N. Any person who receives solid waste service from the franchisees shall be responsible for payment for such service.
 - O. Franchisee may charge at time of service for drop box service or for any customer who has not established credit with franchisee.
- (Ord. 78-64 §8; Ord. 83-19 §1; Ord. 86-66 §§3—6; Ord. 91-36 §1; Ord. 03-08 ; Ord. 09-05 §1; Ord. 15-10 §1)

§ 11.04.100. Container Requirements and Collection Limitations.

- A. In addition to compliance with ORS Chapter 459 and regulations promulgated in it and in this section:

To achieve the purposes of this chapter, to prevent recurring back and other injuries to collectors and other persons, to comply with safety instructions to collectors from the State Accident Insurance Fund, and to comply with safety, health and environmental safeguards:

- 1. Solid waste receptacles designed for manual pickup shall have sides tapering outward to the opening at the top that provide for unobstructed dumping of the contents, two handles on opposite sides, a close-fitting lid with handle, not to exceed 32 gallons' capacity, and be watertight in construction; shall be made of metal or some rigid material that will not crack or break in freezing weather; and shall be waterproof, rodent-resistant and easily cleanable; and shall not exceed the gross loaded weight established by state law or regulation.
- 2. Sunken refuse receptacles or containers shall not be used, unless they are placed aboveground by the owner for service.
- 3. On the scheduled collection day, the customer shall provide safe access to the pickup point which does not jeopardize the safety of the driver of a collection vehicle or the motoring public or create a hazard or risk to the person providing service. Receptacles must be in a visible (from the street or alley) location which may be serviced and driven to by satellite vehicles where practical. Access must not require the collector to pass behind an automobile or other vehicle or to pass under low-hanging obstructions such as eaves, tree branches, clotheslines or electrical wires which obstruct safe passage to and from receptacles. Receptacles must be at ground level, outside of garages, fences and other enclosures, and within 100 feet of the street right-of-way or curb. Where the City Manager finds that a private bridge, culvert or other structure or road is incapable of safely carrying the weight of the collection vehicle, the collector shall not enter onto such structure or road. The customer shall provide a safe alternative access point or system.

4. All solid waste receptacles located at single-family residences shall be placed together in one authorized location on the regularly scheduled collection day.
 5. All solid waste receptacles, including, but not limited to, cans, containers and drop boxes, shall be maintained in a safe and sanitary condition by the customer.
 6. Solid waste service customers shall place items not intended for pickup at least three feet from solid waste receptacles.
 7. No person shall block the access to a solid waste container or drop box.
 8. No person shall place any hazardous waste, as defined by or pursuant to ORS Chapter 466, out for collection by another person, franchisee or permittee or place it in any container supplied by such a person, franchisee or permittee without prior written notification and acceptance by the person, franchisee or permittee, and also upon compliance with any requirements of ORS Chapter 466 and any rules or regulations thereunder. Franchisee may decline to provide service for hazardous waste. A container for hazardous or other special waste shall be appropriately labeled and placed in a location inaccessible to the public. If the container is reusable, it shall be suitable for cleaning and be cleaned. (See also requirements of ORS Chapter 466 and rules and regulations thereunder.)
 9. All putrescible solid wastes shall be removed from any premises at least once every seven days, regardless of whether or not confined in any container, compactor, drop box or other receptacle.
 10. If for other than manual pickup, no customer shall use any solid waste collection container unless it is supplied by the franchisee or is approved by the franchisee on the basis of safety, equipment compatibility, availability of equipment and the purposes of this chapter.
 11. Containers (and drop boxes) shall be cleaned by the customer; provided, however, that the franchisee shall paint the exterior and provide normal maintenance. The customer shall be liable for damage beyond reasonable wear and tear.
 12. Container customers shall supply a location and properly maintain containers so as to meet standards of this chapter.
- B. If a customer does not comply with any of the provisions of subsection A of this section, the franchisee shall not be obligated to provide service to that customer. Franchisee shall immediately notify the customer and the city of the noncompliance. Customer may be charged as if the service had been rendered.
- C. No stationary compactor or other container for commercial or industrial use shall exceed the safe-loading design limit or operation of the collection vehicles provided by the franchisee serving the area. Upon petition of a group of customers reasonably requiring special service, the City Council may require the franchisee to provide vehicles capable of handling specialized loads, including, but not limited to, front-loading collection vehicles and drop-box vehicles and systems.
- D. Any vehicle used by any person to transport wastes shall be so loaded and operated as to prevent the wastes from dripping, dropping, sifting, blowing or otherwise escaping from the vehicle onto any public right-of-way or lands adjacent thereto.

(Ord. 78-64 §15; Ord. 91-36 §1; Ord. 03-08 ; Ord. 09-05 §1)

§ 11.04.105. Stationary Solid Waste Compactors.

- A. To achieve the purpose of this chapter to comply with safety, health and environmental requirements, stationary solid waste compactors are subject to the following requirements:
- B. Franchisee Approval. A customer should obtain franchisee's approval for compatibility with the franchisee's hauling equipment prior to installation of a stationary solid waste compactor.
- C. Operational Standards. At all times the customer and the compactor must remain in compliance with the following requirements:
 - 1. Compliance with any applicable federal, state and local health, safety and environmental regulations including, but not limited to, OAR 437-002-0242 and this section.
 - 2. The compactor and surrounding area will be kept clean at all times.
 - 3. The compactor will undergo regular preventive maintenance and adequate emergency maintenance will be available.
 - 4. There will be no operation of the compactor between the hours of 9 p.m. and 7 a.m.
- D. Safety. No stationary compactor or other container for multifamily residential, commercial or industrial use may exceed the safe-loading design limit or operation of the collection vehicles provided by the franchisee serving the area.
- E. Health. Compactors containing putrescible waste will be emptied at least weekly.
- F. Reimbursement for Fines. Customer will reimburse the franchisee for any fines incurred by the franchisee for weight or environmental violations, or any other violations caused by the ownership, operation or use of the compactor.
- G. Signing. Each container will be clearly labeled with the name, address and telephone number of the customer and the name of an individual to contact.
- H. Violations. Franchisee will not be obligated to transport a compactor that violates the provisions of this section. On notice from franchisee to customer and the city, customer will immediately correct the violation. If customer does not correct the violation, franchisee will give notice of such to the city.

(Ord. 91-36 §1; Ord. 03-08 ; Ord. 09-05 §1; Ord. 18-07 §1)

§ 11.04.110. Offensive Wastes Prohibited.

No person shall have waste on property that is offensive or hazardous to the health or safety of others or which creates offensive odors or a condition of unsightliness.

(Ord. 78-64 §16; Ord. 91-36 §1)

§ 11.04.120. Unauthorized Deposits Prohibited.

No person shall, without authorization and compliance with the disposal site requirements of

this chapter, deposit waste on public property or the private property of another. Streets and other public places are not authorized as places to deposit waste except as specific provisions for containers have been made.

(Ord. 78-62 §17; Ord. 91-36 §1)

§ 11.04.130. Interruption of Franchisee's Service.

The franchisee agrees, as a condition of a franchise, that whenever the City Council finds that the failure of service or threatened failure of service would result in creation of an immediate and serious health hazard or serious public nuisance, the City Council may, after a minimum of 24 hours' actual notice to the franchisee and a public hearing if the franchisee requests it, provide or authorize another person to temporarily provide the service or to use and operate the land, facilities and equipment of a franchisee to provide emergency service. If a public hearing is requested by the franchisee, it may be held immediately by the City Council after compliance with the minimum notice requirements for such meetings established by the Oregon Public Meetings Law. The City Council shall return any seized property and business upon abatement of the actual or threatened interruption of service, and after payment to the city for any net cost incurred in the operation of the solid waste service.

(Ord. 78-64 §10; Ord. 91-36 §1)

§ 11.04.140. Termination of Service by Franchisee.

The franchisee shall not terminate service to all or a portion of the customers unless:

- A. The street or road access is blocked and there is no alternate route and provided that the franchisee shall restore service not later than 24 hours after street or road access is opened;
- B. As determined by the franchisee, excessive weather conditions render providing service unduly hazardous to persons providing service or to the public or such termination is caused by accidents or casualties caused by an act of God, a public enemy, or a vandal, or road access is blocked;
- C. A customer has not paid for provided service after a regular billing and after a seven-day written notice from the date of mailing, which notice shall be sent not less than 15 days after the first regular billing; or
- D. Ninety days' written notice is given to the City Council and to affected customers and written approval is obtained from the City Council;
- E. The customer does not comply with the service standards of Section 11.04.100 of this chapter.

(Ord. 78-64 §11; Ord. 91-36 §1)

§ 11.04.150. Subcontracts.

The franchisees may subcontract with others to provide a portion of the service where the franchisees do not have the necessary equipment or service capability. Such a subcontract shall not relieve the franchisees of total responsibility for providing and maintaining service and from compliance with this chapter. Franchisee shall provide written notice to the city of the franchisee's intention to subcontract any portion of the service prior to entering into such agreement.

(Ord. 78-64 §12; Ord. 91-36 §1)

§ 11.04.155. Business Recycling Requirement.

Unless otherwise exempt, all businesses and business recycling service customers shall comply with the business recycling requirement performance standard set forth in Metro Regional Government Code Section 5.10.330 and the administrative rules adopted pursuant to TMC Section 11.04.185.

(Ord. 09-05 §1; Ord. 11-06 §1; Ord. 19-06 §1)

§ 11.04.160. Business Food Waste Requirement.

Unless otherwise exempt, all covered businesses must comply with the business food waste requirement performance standard set forth in Metro Regional Government Code Section 5.10.410-5.10.470. Owners or managers of single or multi-tenant buildings containing covered businesses must allow or otherwise enable the provision of food waste collection service to lessees or occupants subject to the business food waste requirement.

(Ord. 19-06 §1)

§ 11.04.165. Business Food Waste Rules and Regulations.

Covered businesses must:

- A. Separate food waste from all other solid waste for collection. Covered businesses must have correctly-labeled and easily-identifiable receptacles for internal maintenance or work areas where food waste may be collected, stored, or both.
- B. Collect food waste that is controlled by the business, agents, and employees. This requirement does not apply to food wastes controlled by customers or the public. At its discretion, a business may also collect food waste from customers or the public but must ensure that food wastes are free of non-food items. K-12 schools may also include student-generated food waste from school cafeteria meals but must ensure that food wastes are free of non-food items.
- C. Post accurate signs where food waste is collected, stored, or both that identify the materials that the covered business must source separate.

(Ord. 19-06 §1)

§ 11.04.170. Business Food Waste Compliance Periods.

Covered businesses must comply with the food waste requirement as determined by the quantity of food waste they generate per week, on average. Implementation will begin with Business Group 1 and progress to the other groups according to the dates noted below. Covered businesses that demonstrate they generate less than 250 pounds per week of food waste are not subject to this requirement.

- A. Business Group 1

March 31, 2020-March 31, 2021

Less than or equal to 0.5 ton (1,000 pounds) per week food waste generated

- B. Business Group 2

March 31, 2021-March 31, 2022

Less than or equal to 0.25 ton (500 pounds) per week food waste generated

C. Business Group 3

March 31, 2022-March 31, 2023

Less than or equal to 0.125 ton (250 pounds) per week food waste generated
(Ord. 19-06 §1)

§ 11.04.175. Temporary Compliance Waivers to Covered Businesses.

A covered business may seek a temporary (12 month) waiver from the business food waste requirement by providing access to a recycling specialist for a site visit and demonstrating that the covered business cannot comply with the business food waste requirement. Businesses must agree to periodic waiver verification site visits to determine if conditions that warrant the waiver are still in place and cannot be remedied in accordance with waiver criteria.

(Ord. 19-06 §1)

§ 11.04.180. Rules and Regulations Applicable to Franchisees.

The City Manager or designee may propose and prepare rules and regulations applicable to franchisees that pertain to this chapter. The rules and regulations shall be printed or typewritten, and be maintained for inspection in the office of the City Recorder. All proposed rules and regulations promulgated under the authority of this section, and all amendments thereto, shall be immediately forwarded to the franchisee operating under this chapter for response. The franchisee shall have 30 days to respond in writing to such proposed rules and regulations. If the franchisee has objections or revisions to the proposed rules, the franchisee shall meet and confer with the City Manager regarding the franchisees concerns. If the concerns are not resolved through consultation with the City Manager, then the City Manager shall forward the proposed rule, with the franchisees comments, to the City Council for its consideration. The franchisee may request that the City Council hold a public hearing on a proposed rule. The council may approve the proposed rule as submitted, modify the rule, or reject the rule. The City Manager shall enact all rules pursuant to this subsection by written order.

(Ord. 78-64 §14; Ord. 91-36 §1; Ord. 03-08 ; Ord. 09-05 §1; Ord. 11-06 §1; Ord. 19-06 §1)

§ 11.04.185. Administrative Rules.

The City Manager or designee is authorized to adopt administrative rules related to the provisions of the business recycling and business food waste requirements. Such administrative rules will be adopted pursuant with the provisions of TMC Chapter 2.04.

(Ord. 09-05 §1; Ord. 11-06 §1; Ord. 19-06 §1)

§ 11.04.190. Enforcement.

A. The City Manager shall enforce the provisions of this chapter, and the rules and regulations adopted pursuant thereto; city's agents, including police officers and other employees so designated, may enter affected premises at reasonable times for the purpose of determining compliance with the provisions and terms of this chapter. However, no premises shall be entered without first attempting to obtain the consent of the owner or person in control of the premises if other than the owner. If consent cannot be obtained, the city representative shall secure a search warrant from the city's municipal court before further attempts to gain

entry, and the city shall have recourse to every other remedy provided by law to secure entry.

- B. A franchisee shall have a cause of action in Washington County Circuit Court against any person providing service in the Tigard city limits without having a franchise in violation of Section 11.04.040. The cause of action includes any appropriate relief, including injunctive relief.
1. Notice to City Manager. Before a franchisee may commence a civil action, the franchisee must provide 30 days' written notice to the City Manager. The City Manager may elect either to enforce the provisions of this chapter in accordance with Section 11.04.170, or allow the franchisee to commence a civil action in Washington County Circuit Court against the person in violation of Section 11.04.040. If the City Manager fails to respond to the notice, the franchisee may proceed with the civil action. A franchisee may not commence a civil action if the City Manager is pursuing enforcement actions.
 2. Damages. Any person providing service in the Tigard city limits without having a franchise pursuant to Section 11.04.040 will be subject to the following damages: lost customer revenue to be paid to the franchisee; unpaid franchise fees owed to the city pursuant to Section 11.04.060, which shall be paid to the City of Tigard; liquidated damages in the amount of \$500 for each violation to be paid to the City of Tigard in lieu of imposition of the civil penalty; and any other legal remedies available. The court shall award reasonable attorney fees to the prevailing party.
 3. Violations. For purposes of liquidated damages in paragraph 2 of this subsection B, each incident of service provided without a franchise shall be a separate violation. Incident of service means each and every individual act of service, as defined by Section 11.04.030.N, performed by the violator. For example, providing service without a franchise by hauling a drop box for a person on six occasions is six violations.
 4. Indemnity. The City of Tigard shall have no liability for the franchisee's attorney fees and costs incurred for electing to pursue enforcement under these provisions. Any franchisee who elects to act under this provision shall indemnify the City of Tigard in the event of any claims filed against the city arising out of the franchisee's enforcement actions brought under the provisions of this chapter.

(Ord. 07-01 ; Ord. 09-05 §1; Ord. 19-06 §1)

§ 11.04.195. Penalty.

Violation by any person of the provisions of this chapter or the rules and regulations adopted pursuant to Section 11.04.185 will be deemed a Class 1 civil infraction, punishable according to the provisions set forth in Chapter 1.16 of this code.

(Ord. 78-64 §19; Ord. 91-36 §1; Ord. 09-05 §1; Ord. 18-07 §1; Ord. 19-06 §1)

CHAPTER 11.08 ALARM SYSTEMS

Note: Prior ordinance history: Ord. Nos. 03-12, 02-05, 01-21, 93-13, 87-73 and 82-32.

§ 11.08.000. Title.

This ordinance shall be known as the "alarm ordinance" for the City of Tigard.
(Ord. 14-09 §1)

§ 11.08.010. Purpose.

The purpose of this chapter is to encourage alarm users and alarm businesses to assume increased responsibility for maintaining the mechanical reliability and the proper use of alarm systems to prevent unnecessary police emergency responses to false alarms and thereby protect the emergency response capability of the city from misuse.

(Ord. 14-09 §1)

§ 11.08.020. Definitions.

"Alarm business" means the business by any individual, partnership, corporation, or other entity, of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, or installing any alarm system in or on any building, structure, or facility. Alarm businesses include any person, business, or organization that monitors alarm systems and initiates alarm dispatch requests.

"Alarm dispatch" means the initiation of a communication to dispatch, by an alarm business indicating an alarm has been activated, and requesting police response to the alarm site.

"Alarm system" means any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention to which police may respond. This definition does not include car, medical or fire alarms.

"Alarm user" means a person, firm, partnership, association, corporation, company, or organization of any kind in control of any building, structure, or facility within the City of Tigard in which an alarm system is used.

"Automatic dialing device" means a device connected to a telephone line or Internet connection programmed to select a predetermined telephone number or Internet location (URL address) and transmit by voice message or code signal an emergency message indicating a need for emergency response.

"Chief" means the City of Tigard Chief of Police, or designee.

"City" means the City of Tigard.

"Coordinator" means the individual designated by the chief to issue alarm permits and enforce the provisions of this chapter.

"Current alarm permit" means an alarm permit that is not expired or revoked, and does not have any outstanding fees, fines or penalties.

"Dispatch center" means the facility used to receive emergency and general information from the public.

"False alarm" means an alarm signal, capable of eliciting a response by police when a situation requiring a response by the police does not in fact exist. An alarm is not considered false if there are signs of forced or attempted entry; natural circumstances (heavy wind); notification from the alarm company that the system is faulty before an officer arrives on the scene; notification from the user that the system or the user erred before an officer arrives on the scene; or if a neighbor comes forward to indicate their observance of suspicious activity when no apparent entry or attempted entry can be determined otherwise.

"Interconnect" means to connect an alarm system including an automatic dialing device, to a telephone line or computer network connection either directly or through a mechanical device that utilizes a telephone or computer to transmit a message upon the activation of the alarm system.

"Monitoring center" means a facility used to receive emergency and general information from an alarm user and to direct an emergency response.

"Primary trunk line" means a telephone line serving the police dispatch center that is designated to receive police calls.

"Permit" means an alarm permit, issued by the City of Tigard.

"Permit renewal" means applying for a new permit to replace an expired permit, where the alarm system is designed and used for substantially the same building, facility or structure.

(Ord. 14-09 §1)

§ 11.08.030. Alarm Permit Required.

Every alarm user shall obtain an alarm permit for their alarm system from the coordinator's office upon the effective date of the ordinance codified in this chapter or prior to use of an alarm system.

An application for a permit shall be filed annually with the coordinator's office, required by the chief. Each permit shall bear the signature of the chief and shall be valid for a one-year period. The fees and fine of alarm permits are included in the City of Tigard Fees and Charges Schedule.

The permit shall be physically placed upon the premises using the alarm system, placed near the main entrance to be visible to responding police officers. A separate alarm permit is required for each alarm site.

(Ord. 14-09 §1)

§ 11.08.040. Emergency Notification.

The alarm registration shall be in a form prescribed by the chief, and shall include the name, address and telephone number(s) of individual(s) authorized by the alarm user to act on their behalf in case of emergencies, alarms and false alarms.

(Ord. 14-09 §1)

§ 11.08.050. Protective Sweep.

Any person who obtains or renews an alarm permit after the date of enactment of this section will be provided with a form requesting consent for the police to enter and perform a protective sweep of any building or residence where an alarm is activated, the building or residence is unsecured or shows signs of forcible entry, and no responsible person is immediately available to give or

refuse consent to enter.

The alarm coordinator shall notify dispatch of all properties where the owner does not grant consent under this section, and shall request that dispatch flag the property to notify responding officers of the lack of consent.

(Ord. 14-09 §1)

§ 11.08.060. Nuisance Alarms.

Notwithstanding any other provision of law, a police officer responding to an alarm may disable the alarm when no responsible person is readily available to silence the alarm and the alarm is disturbing the peace, health or repose of the neighbors. Such alarms are deemed public nuisances, and police officers are hereby authorized to immediately abate such nuisances by disabling the alarm.

The police officer must use the least destructive method available to disable the alarm, and shall provide notice to the homeowner of the time and reason the alarm was disabled. The notice may be posted upon the main entrance of the residence or business.

If the police officer forced entry into a building or residence to disable an alarm, prior to leaving, the police officer will take responsible steps to secure the business or residence from further entry or damage, unless the owner or other responsible person is present on the scene prior to the departure of the officer.

(Ord. 14-09 §1)

§ 11.08.070. Delinquent Application.

A late charge will be added to the permit fee of an alarm user who fails to obtain a permit within 60 days or by an alarm user who fails to renew a permit within 60 days after a permit has expired.

(Ord. 14-09 §1)

§ 11.08.080. Governmental Unit.

A governmental unit alarm user shall be subject to this chapter; but a permit shall be issued without a fee and shall not be subject to revocation, additional fees, fines or penalties.

(Ord. 14-09 §1)

§ 11.08.090. User Instructions Required.

Any alarm business selling, leasing, or furnishing an alarm system installed in the City of Tigard shall provide the alarm user with operating instructions for the alarm system, shall notify the alarm user of the alarm permit requirement, and provide an alarm permit application and a fee schedule.

The alarm business shall maintain records demonstrating compliance with this section, and provide documentation to the chief's office upon request. Calls for emergency response to alarm event by an alarm business must include the corresponding alarm permit number.

(Ord. 14-09 §1)

§ 11.08.100. Auto Dialing Devices.

It is unlawful for any person to program an automatic dialing device to select a primary trunk

line or any 9-1-1 prefix requiring police response; and it is unlawful for an alarm user to fail to disconnect or reprogram an automatic dialing device programmed to select a primary trunk line within 12 hours of receipt of written notice from the Tigard Police Department that it is so programmed.

(Ord. 14-09 §1)

§ 11.08.110. Enhanced Call Verification.

All alarm businesses monitoring alarm systems in the City of Tigard, will attempt a verification call to the alarmed premises and if no responsible party is located on the initial verification call, a second verification call will be made prior to the alarm business requesting a police alarm dispatch request.

(Ord. 14-09 §1)

§ 11.08.120. Equipment Standard.

Alarm businesses installing alarm systems in the City of Tigard shall use alarm control panels that meet SIA Control Panel Standard CP-01. Alarm businesses will maintain records demonstrating compliance with this section, and provide documentation to the chief's office upon request.

(Ord. 14-09 §1)

§ 11.08.130. Government Immunity.

Alarm registration does not create a contract, duty, or obligation, either expressed or implied, of response to an alarm. All liability and consequential damage resulting from the failure to respond to a notification is hereby disclaimed and governmental immunity as provided by law is retained.

The alarm user acknowledges that law enforcement response may be influenced by factors such as availability of police units, priority of calls, weather conditions, traffic conditions, emergency conditions, staffing levels, and prior response history.

(Ord. 14-09 §1)

§ 11.08.140. False Alarm Fees.

An alarm user incurring a false alarm shall be subject to a fee established by the chief. The user shall be notified by mail of a false alarm occurrence and payment shall be made to the alarm coordinator within 30 days of receipt of the notice.

At the chief's discretion, the coordinator shall notify the alarm user of excessive false alarms and direct the user to submit a report within 10 days of the notice describing actions to be taken to eliminate the cause of false alarms. Failure to submit a report as directed shall be grounds for revocation of the alarm permit.

(Ord. 14-09 §1)

§ 11.08.150. Penalties.

Alarm users incurring three or more false alarms within a permit year shall be subject to a fine. The user will be notified by mail of the fine, and payment shall be made to the alarm coordinator within 30 days of receipt of the notice.

Additional penalties will be charged to a user that is more than 60 days delinquent in paying

false alarm fees, fines or penalties. At the chief's discretion, the alarm coordinator shall notify the alarm user of excessive false alarms and direct the user to submit a report within 10 days of receipt to the notice describing the actions to be taken to eliminate the cause of the false alarms.

Failure to pay a renewal fee, false alarm fee, or fine within 90 days shall result in revocation of the alarm permit until all fees are paid. The alarm user shall be notified by mail that no further law enforcement response to alarms at that property will be forthcoming. The alarm user shall have 14 days from the date of the revocation notice to make payment arrangements with the chief's office. If fees remain unpaid and no payment arrangement is made at the expiration of 14 days after the date of the revocation notice, the chief's office shall notify dispatch of the revocation and shall request that dispatch flag the property for non-response on any additional alarms generated at the property until the permit is reinstated.

If more than six false alarms are generated within a 12-month period, the alarm coordinator may revoke the alarm permit for a period of not more than one year. This revocation shall be in addition to and separate from any false alarm fines. The alarm user shall be notified by mail of the revocation and the fact that no further police response will be forthcoming for alarms generated at the property. The alarm user will have 14 days from the date of the revocation notice to petition the chief's office for reconsideration. Requests to reconsider a revocation under this section will be considered if all fees, fines and penalties are current and a written plan to resolve false alarms is submitted.

If no petition for reconsideration is made or if the chief denies the petition, the chief's office shall notify the alarm user and dispatch of the revocation. The property will be flagged for nonresponse on any additional alarms generated at the property, until the alarm permit is reinstated. Any alarm user who has had their alarm permit revoked shall pay a reinstatement fee. No alarm permit may be reinstated until all outstanding fees, fines or penalties are paid in full.
(Ord. 14-09 §1)

§ 11.08.160. Alarm Permit Revoked.

It is unlawful to generate additional false alarms on a permit that has been revoked and not reinstated. Any alarm user who has had their alarm permit revoked shall take steps to disable the alarm or otherwise configure the alarm system so it does not generate additional false alarms.

Notwithstanding the fact that police response has been discontinued due to revocation, generating additional false alarms, after an alarm permit has been revoked and not reinstated, constitutes a violation of this code and is punishable by a fine.

(Ord. 14-09 §1)

§ 11.08.170. Confidentiality.

All information supplied on an alarm permit application is recognized as personally confidential and will be withheld from disclosure under public records law to the extent allowable under the law.

(Ord. 14-09 §1)

§ 11.08.180. Interpretation.

This chapter shall be liberally construed to effect the purpose of the ordinance codified and to achieve uniform interpretation and application of the respective ordinances.

§ 11.08.180

HEALTH AND SAFETY

§ 11.08.200

(Ord. 14-09 §1)

§ 11.08.190. Senior Citizen Exemption.

If a residential alarm user is over the age of 60, or physically handicapped, and is the primary resident of the residence and no business is conducted in the residence, a permit may be obtained without the payment of a fee.

(Ord. 14-09 §1)

§ 11.08.200. Allocation of Revenues.

All penalties collected pursuant to this chapter shall be deposited to the city general fund.

(Ord. 14-09 §1)

CHAPTER 11.10 THEATER REGULATIONS

§ 11.10.010. Purpose.

This chapter is intended to protect the public health and safety of the citizens of Tigard through the regulation of theaters by prohibiting enclosed viewing booths in order to reduce the potential for spread of fire, disease, and criminal activity.

(Ord. 93-22 §1)

§ 11.10.020. Definitions.

As used in this chapter, unless the context otherwise requires, the following definitions shall apply:

"Theater" means any establishment used for the retail presentation or viewing of motion pictures, films or videotapes of any type, but shall not include public or private schools, residences or any other establishment where the principal activity is not the retail presentation of motion pictures, films or videotapes of any type.

"Viewing booth" means any booth, cubicle, room or stall that is physically separated from other areas by a door, curtain, partition, drapery or other device or material, and is designed, intended or used to provide for viewing of motion pictures, films or videotapes in private by one or more persons. "Viewing booth" does not include a theater designed, intended or used to provide for viewing of motion pictures, films or videotapes by an audience seated together in a room or auditorium designed or intended for use by more than one person.

(Ord. 93-22 §1)

§ 11.10.030. Regulations.

- (a) All theaters shall be physically arranged so that the entire portion of any and all viewing booths shall be visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, partitions, drapes, or any other device or material whatsoever.
- (b) All viewing booths shall be lighted so that the persons in them are visible from the adjacent common area, but such lighting shall not be of such intensity as to prevent the viewing of motion pictures, films, or videotapes.
- (c) All theaters shall be required to comply with the requirements of Section 11.10.030(a) and (b) when any building permit is issued for the theater.

(Ord. 93-22 §1)

HEALTH AND SAFETY

Title 12**WATER AND SEWERS**

Chapter 12.01 UTILITY SERVICES RULES AND REGULATIONS	§ 12.02.090. Immediate Remedial Action Required. § 12.02.100. Penalty.
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§ 12.01.010. Definitions. § 12.01.020. Purpose. § 12.01.030. Clean Water Services—Authority. § 12.01.035. Tigard Water Service Area—Authority. § 12.01.040. Amendments. § 12.01.050. Utility Fees and Charges. § 12.01.060. Application for Utility Services. § 12.01.070. Responsibilities of Property Owners and Tenants. § 12.01.080. Utility Services Administrative Rules.	Chapter 12.03 BILLING AND COLLECTION OF UTILITY CHARGES	§ 12.03.010. Authority. § 12.03.020. Definitions. § 12.03.030. Rates, Charges, Fees, Penalties, Collections. § 12.03.040. Utility Charge Adjustments and Payment Agreements. § 12.03.050. Customer Appeal Process.
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Chapter 12.02 SANITARY SEWER AND SURFACE WATER MANAGEMENT	§ 12.10.010. Definitions. § 12.10.020. Introduction. § 12.10.030. Use of Water. § 12.10.040. Service Size. § 12.10.050. Separate Connection. § 12.10.060. Furnishing Water. § 12.10.070. Service Pipe Standard and Maintenance. § 12.10.080. Violation of Utility Services Code. § 12.10.090. Jurisdiction of Water System. § 12.10.100. Waste—Plumbing—Inspection. § 12.10.110. Physical Connections with Other Water Supplies or Systems. § 12.10.120. Cross-Connection Control Program. § 12.10.140. Water Rates.
§ 12.02.010. Title. § 12.02.020. Definitions. § 12.02.030. Purpose. § 12.02.040. Clean Water Services Rules Adopted. § 12.02.050. Use and Operation—Charges Imposed for Use—Appeal Procedures and Enforcement. § 12.02.060. Charges, Rates and Fees—Associated Penalties. § 12.02.070. Pretreatment by Industrial Users. § 12.02.080. Temporary Adoption of Clean Water Services Ordinances, Resolutions and Orders.	§ 12.10.010. Definitions. § 12.10.020. Introduction. § 12.10.030. Use of Water. § 12.10.040. Service Size. § 12.10.050. Separate Connection. § 12.10.060. Furnishing Water. § 12.10.070. Service Pipe Standard and Maintenance. § 12.10.080. Violation of Utility Services Code. § 12.10.090. Jurisdiction of Water System. § 12.10.100. Waste—Plumbing—Inspection. § 12.10.110. Physical Connections with Other Water Supplies or Systems. § 12.10.120. Cross-Connection Control Program. § 12.10.140. Water Rates.

WATER AND SEWERS

§ 12.10.150.	Interrupted Service—Changes in Pressure.	§ 12.10.200.	Amendments—Special Rules—Contracts.
§ 12.10.160.	Service Connection Maintenance.	§ 12.10.210.	Grievances.
§ 12.10.170.	Limitation on the Use of Water.	§ 12.10.220.	Findings and Declaration of a Water Emergency.
§ 12.10.180.	Fire Hydrant—Temporary Use.	§ 12.10.230.	Enforcement.
§ 12.10.190.	Illegal Use of Fire Hydrant or Meter.	§ 12.10.240.	Penalties.
		§ 12.10.250.	Water Shut-Off.

CHAPTER 12.01 UTILITY SERVICES RULES AND REGULATIONS

§ 12.01.010. Definitions.

"City" means the City of Tigard.

"City manager" means the city manager of the City of Tigard or the city manager's designee.

"Clean Water Services" is a county service agency organized under ORS 451 with managing authority for the sanitary sewer and surface water management systems within the City of Tigard boundary.

"Customer" means the person in whose name service is rendered, as evidenced by a request for service, receipt of service, signature on an application for service or by receipt and payment of bills for service.

"Managing authority" means the entity assigned authority to manage, set fees and charges, and adopt and enforce practices and procedures. In areas where two or more entities exist with authority to manage, set fees and charges, and adopt and enforce practices and procedures, the managing authority shall be designated by agreement between such entities.

"Permit" means the national pollutant discharge elimination permit issued to Clean Water Services.

"Person" means any individual, group or legal entity.

"Responsible party" means the person responsible for curing or remedying a violation of this title and includes:

1. The owner of the property, or the owner's manager or agent or other person in control of the property on behalf of the owner.
2. The person occupying the property, including lessee, tenant or other person having possession.
3. The person who is alleged to have committed unauthorized or illegal acts or omissions, or created or allowed an unauthorized or illegal condition to exist.

"Tigard Water Service Area" means the territory within the boundaries of the City of Durham, City of King City, Tigard Water District and the portion of the City of Tigard not served by the Tualatin Valley Water District.

"Utility" means sewer, water and surface water management services provided by the City of Tigard.

(Ord. 11-09 §1)

§ 12.01.020. Purpose.

This chapter provides provisions, rules, and regulations applicable to all other sections within Title 12, Water and Sewer.

(Ord. 11-09 §1)

§ 12.01.030. Clean Water Services—Authority.

Clean Water Services as the permit holder is responsible for the management and operation of

the public sanitary sewer and the public storm and surface water systems within its boundaries. The city has certain responsibilities for the operation and maintenance of the public sanitary sewer and the public storm and surface water systems within the city limits, as provided through intergovernmental agreement with Clean Water Services. Clean Water Services, as the managing authority may adopt orders, standards, specifications, work programs, reporting requirements, and performance criteria for the proper and effective operation of the sanitary sewer and storm and surface water systems and to meet or comply with state and federal permits, laws and regulation.

(Ord. 11-09 §1)

§ 12.01.035. Tigard Water Service Area—Authority.

- A. The city is the managing authority to provide water service to the Tigard Water Service Area through the adoption of intergovernmental agreements.
- B. All city provisions, rules, regulations, standards, fees, and charges regarding water service provided by the city as managing authority shall also apply to all customers and persons within the Tigard Water Service Area.

(Ord. 11-09 §1)

§ 12.01.040. Amendments.

With regard to water facilities and service, the city may at any time amend, change or modify any rule, rate or charge, or make any special rule, rate or contract.

(Ord. 11-09 §1)

§ 12.01.050. Utility Fees and Charges.

- A. Utility fees and charges shall be applied to all persons who use property in a manner which requires city utility facilities or services. If a customer does not put property to a use which requires one or more of the utility facilities or services, the customer shall not be charged for such service.
- B. Utility fees and charges shall be established by resolution of the City Council in an amount reasonable and necessary to fund the administration, planning, design, construction, water quality programming, operation, maintenance and repair, and debt service and other revenue requirements as required by bond covenants of the city's utility systems. The charges shall be based on use of the utility service.

(Ord. 11-09 §1)

§ 12.01.060. Application for Utility Services.

Application to use the utility system shall be made to the city. The application will be made in the format required by the city. The city will require such application to be in writing, or may allow application by telephone or other method. All persons receiving utility service but for whom no account exists to pay for such services shall be deemed to be applicants for such service and shall be billed for such service.

(Ord. 11-09 §1)

§ 12.01.070. Responsibilities of Property Owners and Tenants.

- A. Owners of property served by city utility facilities and services who are not the customer shall not be responsible for any delinquent utility charges which the customer fails to pay. If service is terminated because of delinquent non-payment, and the customer vacates the premises leaving an outstanding bill, service shall be restored at the request of the property owner or new tenant without requiring the property owner or new tenant to pay the outstanding bill.
- B. A customer who is a tenant shall continue to be responsible for delinquent utility charges until paid regardless of relocation to a premises different from the premises at which the delinquent charges were accrued. The city may refuse to provide service to such tenant at any new address, may add the delinquent charge to the tenant's utility bill, and/or may terminate water service until the delinquent bill is paid. The city may also pursue any action available under the laws of the city or state of Oregon to recover payment.

(Ord. 11-09 §1)

§ 12.01.080. Utility Services Administrative Rules.

The city manager is authorized to approve administrative rules related to the provisions of utility services and consistent with the provisions within Title 12, Water and Sewer. Such rules shall be approved pursuant to TMC Chapter 2.04.

(Ord. 11-09 §1)

**CHAPTER 12.02
SANITARY SEWER AND SURFACE WATER MANAGEMENT**

§ 12.02.010. Title.

This chapter shall be known as the "Sanitary Sewer and Surface Water Management Chapter" and may also be referred to as "this chapter."

(Ord. 94-19)

§ 12.02.020. Definitions.

As used in this chapter:

"Responsible party" means the person responsible for curing or remedying a violation of this chapter, and includes:

- A. The owner of the property, or the owner's manager or agent or other person in control of the property on behalf of the owner;
- B. The person occupying the property, including lessee, tenant or other person having possession;
- C. The person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed or transported the eroding soil.

(Ord. 94-19)

§ 12.02.030. Purpose.

This chapter adopts the ordinance and rules of Clean Water Services that pertain to the operation and use of sanitary and surface water systems and to systems development charges. This chapter does not regulate the collection of user fees.

(Ord. 94-19 ; Ord. 02-28)

§ 12.02.040. Clean Water Services Rules Adopted.

Clean Water Services Resolution and Orders No. 91-47 (excluding Chapter 2) as amended, construction standards and regulations pertaining to the sanitary sewerage and storm and surface water management systems are adopted and shall be in full force and effect as part of this code.

(Ord. 94-19 ; Ord. 02-28)

§ 12.02.050. Use and Operation—Charges Imposed for Use—Appeal Procedures and Enforcement.

Clean Water Services Ordinance Nos. 26 through 28 as amended are adopted by reference and shall be in full force and effect as part of this municipal code.

(Ord. 94-19 ; Ord. 02-28)

§ 12.02.060. Charges, Rates and Fees—Associated Penalties.

Clean Water Services Resolution and Order No. 93-33 as amended is adopted by reference and shall be in full force and effect as part of this municipal code.

(Ord. 94-19 ; Ord. 02-28)

§ 12.02.070. Pretreatment by Industrial Users.

Clean Water Services Resolution and Order No. 92-60 as amended is adopted by reference and shall be in full force and effect as part of this municipal code.

(Ord. 94-19 ; Ord. 02-28)

§ 12.02.080. Temporary Adoption of Clean Water Services Ordinances, Resolutions and Orders.

The city manager, without prior council approval, may adopt and enforce amendments and revisions to any ordinances and/or resolutions and orders promulgated by Clean Water Services to be in effect for a period of no longer than 90 days from the date of adoption by the manager. In order for such ordinances and/or resolutions and orders to remain in effect permanently, the city council must adopt them prior to the expiration date of the temporary adoption by the manager.

(Ord. 94-19 ; Ord. 02-28)

§ 12.02.090. Immediate Remedial Action Required.

If the code enforcement officer determines that there has been a violation of this chapter, or that conditions exist that are likely to result in a violation, the officer may require immediate remedial action by the responsible party. If the code enforcement officer is unable to serve a notice of infraction on the responsible party or, if after such service, the responsible party refuses or is unable to remedy the infraction, the city may proceed to remedy the infraction as provided in Section 1.16.150 of this code.

(Ord. 94-19 ; Ord. 12-01 §2)

§ 12.02.100. Penalty.

- A. Each day that violation of this chapter is committed or is permitted to continue shall constitute a separate violation.
- B. A finding of a violation of this chapter and imposition of a fine pursuant to this code shall not relieve the responsible party of the duty to abate the violation. A civil fine imposed pursuant to this section is in addition to and not in lieu of any other remedies available to the city.
- C. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this section.
- D. A finding of a violation of this chapter shall not result in imprisonment, nor shall a jury trial be available in the adjudication of an allegation of such violation.
- E. A finding of a violation of this chapter shall be a civil infraction pursuant to Tigard Municipal Code Chapter 1.16 and may be prosecuted in the municipal court of the city.

(Ord. 94-19)

**CHAPTER 12.03
BILLING AND COLLECTION OF UTILITY CHARGES**

Note: Prior ordinance history: Ord. Nos. 96-02, 02-29.

§ 12.03.010. Authority.

All definitions, authority, rules, and regulations as described in Chapter 12.01, Utility Services Rules and Regulations, are applicable to this chapter.

(Ord. 12-06 §1)

§ 12.03.020. Definitions.

Utility Charges. Any combination of water service charges, sanitary sewer service charges, surface water charges or other fees and charges authorized by the Tigard City Council or the Clean Water Services imposed on users of utility services.

Delinquent. Utility charges not paid by the due date specified on the bill for such charges are considered delinquent.

User. Any person who uses property which maintains connection to, discharge to, or otherwise receives services from the city's stormwater, surface water, sanitary sewer or water systems. The occupant of occupied property is deemed the user. If the property is not occupied, the person who has the right to occupy it shall be deemed the user.

(Ord. 12-06 §1)

§ 12.03.030. Rates, Charges, Fees, Penalties, Collections.

- A. Clean Water Services Rates and Charges Resolution and Orders as amended and Ordinance Numbers 26, 27, 28, and 29 as amended are hereby adopted by reference and shall be in full force and effect as part of this municipal code.
- B. Collections from utility customers will be applied first to interest, penalties or other fees and charges, then proportionately among the rest of charges for services billed or as provided by contract with Clean Water Services.
- C. All fees and charges set forth in this chapter shall be set by resolution by the Tigard City Council.

(Ord. 12-06 §1)

§ 12.03.040. Utility Charge Adjustments and Payment Agreements.

When the finance director or designee determines that a billing error has occurred, the director or designee may authorize an adjustment of the customer's utility account for the period of the error, not to exceed two years from the date the error is identified. Adjustments will be in the form of credits or additional charges to active utility accounts. Errors in billing or collection shall be corrected in a timely manner by the city. Resulting credits on accounts or refunds shall be made as expeditiously as possible. Disputed billings or other collection transactions shall be dealt with as follows:

In recognition of the need for exceptions in some cases, authority is granted as follows for adjustments to utility charges and to the implementation of payment agreements.

- A. The finance director or designee shall have the authority to waive utility charges up to \$500. Such waiver may be made based upon a written request from the customer and for good cause. Good cause may include, but is not limited to, correction of user or account information, failure of the city to send a bill, demonstrated failure of a user to receive a bill, correction of measurement of either fixture units or equivalent service units and adjustments to the time in which requester became the user. Waivers may include returned check charges, disconnection charges or utility charges.
- B. The city manager or designee shall have the authority to waive utility charges up to \$2,500. Such waiver must be made based upon a written request from the customer and for good cause as defined in subsection A of this section. The city manager shall receive a written report of findings from staff and then weigh the evidence presented by the customer and the staff before making any such waiver.
- C. The city may enter into a payment agreement with a customer to facilitate the payment of delinquent utility charges. Such agreements shall not exceed the term of one year, current charges must be paid when due, and the agreement must be signed by both parties and must be a legally binding agreement. Breach of such an agreement by the customer shall result in further collection efforts. The city shall not enter into more than two payment agreements with a given customer in a one-year period, beginning as of the date the first payment agreement is executed by the parties. Payment agreements for amounts over \$10,000 must be approved by the Tigard City Council.

(Ord. 12-06 §1; Ord. 16-18 §1)

§ 12.03.050. Customer Appeal Process.

Customers shall have the right to appeal billing decisions made by staff. If a customer is not satisfied with a decision, the customer may appeal to the finance director within 14 days of the decision in writing explaining the issue and justification for the customer's position. Finance director decisions may be appealed to the city manager within 14 days of the decision in a similar fashion. City manager decisions may be appealed within 14 days of the decision to the City Council. Council decisions are considered final.

(Ord. 12-06 §1)

CHAPTER 12.10 WATER SYSTEM RULES AND REGULATIONS

Note: Prior ordinance history: Ord. Nos. 93-34, 94-19, 96-02, 01-15, 02-31.

§ 12.10.010. Definitions.

"Tigard Water Service Area (TWSA)" shall mean the territory within the boundaries of City of Durham, City of King City, Tigard Water District and the portion of the City of Tigard not served by Tualatin Valley Water District (TVWD).

(Ord. 12-06 §3)

§ 12.10.020. Introduction.

All definitions, authority, rules, and regulations as described in Chapter 12.01, Utility Services Rules and Regulations, are applicable to this chapter.

(Ord. 12-06 §3)

§ 12.10.030. Use of Water.

Water will be furnished for ordinary domestic, business and community purposes, and fire protection only. No water will be furnished for the direct operation of steam boilers, machinery or golf courses, except on an interruptible basis, and the city will assume no responsibility therein.

(Ord. 12-06 §3)

§ 12.10.040. Service Size.

Upon the application for new water service, and payment of all charges, the city will install a service connection and meter of such size and location as approved by the Public Works Department. Meter and water service piping shall be sized using the fixture count method as described in the State of Oregon Uniform Plumbing Code. The minimum size of any water meter, which connects to the city water system, shall be five-eights/three-fourths inch diameter.

In new subdivisions, the city requires the installation of water mains, valves, hydrants and water services by the developer as a part of improvements as described in this chapter. All improvements and installations shall be in accordance with public improvement design standards.

(Ord. 12-06 §3)

§ 12.10.050. Separate Connection.

A separate service connection will be required for each dwelling, apartment or motel, place of business, and institution. All outlying buildings and premises used as a part of such dwelling place or business or institution may be served from such connection, as well as all buildings on such premises operated under the one management. The city shall prescribe the number of buildings to be served from one meter and such determination shall be final.

(Ord. 12-06 §3)

§ 12.10.060. Furnishing Water.

The city shall not be obligated to furnish and install, at its expense, system facilities for all property within the city. The city shall, so far as reasonable and practicable and within its financial means, however, provide adequate source of supply, necessary primary transmission mains, storage facilities and other improvements necessary to make water service generally available to all areas within the city. Extensions to furnish water to areas not now served by the city will be made at the expense of those persons requesting service. Such extensions will be made by the city or by those expressly authorized by the city. Consideration will be given to the city's ability to serve and to eligibility for annexation to the city of the property to be served. The city may contract with other governmental entities for the provision of water. The terms of service will be defined by agreement and consistent with the terms of this chapter.

(Ord. 12-06 §3)

§ 12.10.070. Service Pipe Standard and Maintenance.

Service pipes of all sizes, within or without the premises, whether for domestic, commercial, or fire protection purposes, must be materials, quality, class, and size as specified by the state plumbing code or regulations of the city.

The service pipe within the premises and throughout its entire length to the water meter must be in serviceable condition. It must be protected from freezing at the expense of the customer, lessee, or agent, who shall be responsible for all damages resulting from leaks or breaks.

(Ord. 12-06 §3)

§ 12.10.080. Violation of Utility Services Code.

- A. Waste. No customer shall cause or permit water to run or be discharged through the fixtures, pipes or faucets on the customer's premises in excess of the quantity necessary for domestic, irrigation or other permitted purposes under this code.
- B. Damage. No person shall willfully or maliciously damage or in any manner interfere with or remove any of the pipes, valves, back flow prevention devices, meters, lock seals, surface water management systems or other property belonging to the city or used in connection with the city utility system. Any person violating this section shall be charged for all costs associated with repairing any such damage or interference, plus any penalty. This charge may be added to the utility bill. Failure to pay such repair charges shall be a basis for discontinuance of service.
- C. Tampering. No unauthorized person shall tamper with, alter, or damage any part of the city utility system, reservoir system, pumping station, surface water management system, metering facilities, open or close any fire hydrant or service line. No person shall alter the utility service in a manner which would allow service to more than one household without applying for service and complying with this code. The council may establish a tampering fine by resolution for violation of this provision. This fine may be included in the utility bill. Failure to pay that fine can result in discontinuance of service.
- D. Violations. Violation of this section is punishable by a fine of not more than \$5,000. Violation of this section a second or subsequent time within a 24-month period is punishable by a fine of not less than \$1,500 and not more than \$5,000.
- E. Code Violation a Civil Violation. In addition to the other penalties provided by this code

and state law, a violation of any requirement of the Utility Code shall be a civil violation pursuant to Chapter 1.16 of this code and may be prosecuted in the Municipal Court of the City of Tigard.

(Ord. 12-06 §3)

§ 12.10.090. Jurisdiction of Water System.

The operation and repair of the city's water system, including pipes, valves, pumps, reservoirs, fixtures, etc. is the complete responsibility of the city's Public Works Department. No plumber, contractor, or other person will be allowed to connect to or operate any part of the city's water system up to and including the water meter.

(Ord. 12-06 §3)

§ 12.10.100. Waste—Plumbing—Inspection.

Water will not be furnished to premises where it is allowed to run or waste to prevent freezing or through defective plumbing or otherwise. Plumbing should be in conformance with the appropriate codes of the jurisdiction issuing the building permit.

(Ord. 12-06 §3)

§ 12.10.110. Physical Connections with Other Water Supplies or Systems.

- A. Neither cross-connections nor physical connections of any kind shall be made to any other water supply, whether private or public, without the written consent and approval of the City Council, and the written approval of the Oregon Health Authority. Included in this category are all pipe lines, appurtenances and facilities of the city system and all pipes, appurtenances, pumps, tanks, storage reservoirs, facilities, equipment, appliances, etc., of other systems whether located within or on public or private property, or the premises of a water customer.
- B. Any such connection shall be removed by the customer within 10 days after written notice to remove is given by the city. If not removed within the time specified, the city may remove or discontinue any connection which it may have for servicing the property.
- C. No person shall interfere with or attempt to prevent the public works director or other authorized representative from entering upon private premises and inspecting the property when an emergency exists or the public works director or authorized representative exhibits a warrant authorizing entry.

(Ord. 12-06 §3)

§ 12.10.120. Cross-Connection Control Program.

- A. The city maintains a cross connection control program in order to protect the public water supply from contamination or pollution, and to assure that approved backflow prevention assemblies or devices are tested and/or inspected annually.
- B. Determination by the city of appropriate levels of protection shall be in accordance with the Accepted Procedures and Practice in Cross-Connection Control Manual, American Water Works Association, Pacific Northwest Section, current edition.

(Ord. 12-06 §3)

§ 12.10.140. Water Rates.

All rates, fees and charges shall be set by resolution of the Tigard City Council.
(Ord. 12-06 §3)

§ 12.10.150. Interrupted Service—Changes in Pressure.

The water may be shut off at any time for repairs or other necessary work with or without notice. Conditions may cause a variation of the pressure. The city will not be responsible for any damage caused by interruption of service or varying pressure.
(Ord. 12-06 §3)

§ 12.10.160. Service Connection Maintenance.

- A. The city will maintain all standard service connections in good repair without expense to the customers. Each customer is required to use reasonable care and diligence to protect the water meter and meter box from loss or damage by freezing, hot water, traffic hazards, and other causes, in default of which, such customer shall pay to the city the full amount of the resulting damage.
- B. Each customer is required to maintain a vegetation and other obstruction free zone of a minimum of two feet around the water meters, fire hydrants or other water appurtenances. Clear access to the meter shall be from the street side in a direct path to the water meter. The customer shall remove any obstruction within 30 days' written notice from the city. Failure to maintain the area within the time ordered by the city may result in city personnel clearing the area to meet the city's meter reading and maintenance needs. The City Council may establish a service connection maintenance charge by resolution for violation of this provision. This charge may be included in the utility bill. Failure to pay fine may result in discontinuance of service. The city shall have no liability for trimming or maintaining vegetation in order to read meters.

(Ord. 12-06 §3; Ord. 16-19 §1)

§ 12.10.170. Limitation on the Use of Water.

- A. Limitation on the use of water as to hours, purpose, or manner may be prescribed from time to time by order of the public works director, based on a finding that the limitation is reasonable given the available and projected water supply and demand. Any order under this section shall be reviewed by the City Council at its next session following issuance of the order. The City Council may affirm, withdraw or amend the order.
- B. The public works director, the city manager or the City Council may call for voluntary reductions in water use, including, but not limited to, voluntary rotational watering plans.

(Ord. 12-06 §3)

§ 12.10.180. Fire Hydrant—Temporary Use.

Any person who desires to use a fire hydrant for temporary water supply must obtain permission of the city. The charge for temporary use shall be set by resolution of the City Council. The customer is responsible for repair and/or replacement of damaged meter.

(Ord. 12-06 §3)

§ 12.10.190. Illegal Use of Fire Hydrant or Meter.

Connection to a fire hydrant or meter without proper authority is a Class 1 civil infraction.
(Ord. 12-06 §3)

§ 12.10.200. Amendments—Special Rules—Contracts.

The city may at any time amend, change or modify any rule, rate or charge, or make any special rule, rate or contract, and all water service is subject to such power.
(Ord. 12-06 §3)

§ 12.10.210. Grievances.

Any grievance as to service or complaints shall be made to the public works director, who shall attempt to resolve the problem. Any unresolved grievances as to service or complaints shall be reported and will be considered by the city manager.
(Ord. 12-06 §3)

§ 12.10.220. Findings and Declaration of a Water Emergency.

Upon finding that the municipal water supply is incapable of providing an adequate water supply for normal usage due to a drought, system failure or any other event, the City Council may declare a water emergency and require that water usage must be curtailed. The declaration shall include the effective date, the reason for the declaration and the level of prohibition declared. The City Council may include an estimated time for review or revocation of the declaration.
(Ord. 12-06 §3)

§ 12.10.230. Enforcement.

- A. Warning. The city shall send a letter of warning for each violation of a curtailment restriction if no previous letter of warning has been sent to the person responsible for the violation. The letter of warning shall specify the violation, may require compliance measures and shall be served upon the person responsible for the violation. Service may be in person, by office or substitute service or by certified or registered mail, return receipt requested.
- B. Civil Infraction. After the person responsible for the violation has received a warning letter, any subsequent violation shall be treated as a civil infraction under Chapter 1.16.
(Ord. 12-06 §3)

§ 12.10.240. Penalties.

- A. First violation: Warning letter.
- B. Second violation of the same type: Class 3 infraction—\$50.
- C. Third violation of the same type: Class 2 infraction—\$100.
- D. Fourth and subsequent violations of the same type: Class 1 infraction—\$250.
(Ord. 12-06 §3)

§ 12.10.250. Water Shut-Off.

After the third violation of a curtailment restriction, the public works director may order that the water service to the location where the violation has occurred shall be shut-off or reduced. A shut-off notice shall be posted on the property at least 48 hours prior to the scheduled shut-off or reduction. The shut-off notice shall specify the reasons for the shut-off or reduction. Any person wishing to avoid a shut-off must provide the public works director with evidence that the shut-off will create a health or safety risk. All shut-offs imposed under this section shall be temporary, not to exceed 30 days, provided the applicable charges are paid prior to reconnection.

(Ord. 12-06 §3)

City of Tigard, OR

WATER AND SEWERS

Title 13**LOCAL IMPROVEMENTS**

Chapter 13.04		
GENERAL PROCEDURES		
§ 13.04.010.	Definitions.	§ 13.09.050. Public Hearing.
§ 13.04.020.	Initiation of Local Improvement District.	§ 13.09.060. Notice of Public Hearing.
§ 13.04.030.	Fees—Report and Recommendation—Resolution.	§ 13.09.070. City Council Action.
§ 13.04.040.	District Formation—Public Hearing—Ordinance.	§ 13.09.080. Notice of Adoption of Resolution.
§ 13.04.050.	Improvements—Final Plan And Specifications—Resolution Accepting.	§ 13.09.090. Recording the Resolution.
§ 13.04.055.	Public Hearing on Final Plans and Specifications.	§ 13.09.100. Contesting the Reimbursement District.
§ 13.04.060.	Assessment—Notice and Public Hearing—Ordinance.	§ 13.09.105. Final Public Hearing.
§ 13.04.070.	Finance and Closure.	§ 13.09.110. Obligation to Pay Reimbursement Fee.
§ 13.04.080.	Administration.	§ 13.09.115. Annual Fee Adjustment.
Chapter 13.09		§ 13.09.120. Administration.
REIMBURSEMENT DISTRICTS		Chapter 13.12
§ 13.09.010.	Definitions.	ECONOMIC IMPROVEMENT DISTRICTS
§ 13.09.020.	Application for a Reimbursement District.	§ 13.12.010. Definitions.
§ 13.09.030.	City Engineer's Report.	§ 13.12.020. Economic Development Plan.
§ 13.09.040.	Amount to Be Reimbursed.	§ 13.12.030. Notice.
		§ 13.12.040. Hearing.
		§ 13.12.050. Voluntary Assessments.
		§ 13.12.060. Collection of Assessments.
		§ 13.12.070. Assessment.
		§ 13.12.080. Expenditures.

CHAPTER 13.04 GENERAL PROCEDURES

§ 13.04.010. Definitions.

As used in this chapter:

"Local improvement" means:

- a. The grading, graveling, paving or other surfacing of any street, or opening, laying out, widening, extending, altering, changing the grade of or constructing any street;
- b. The construction or reconstruction of sidewalks;
- c. The installation of street lights;
- d. The installation of underground wiring or related equipment;
- e. The reconstruction or repair of any street improvement mentioned in this subsection;
- f. The construction, reconstruction or repair of any sanitary or storm sewer or water main;
- g. The acquisition, establishment, construction or reconstruction of any off-street motor vehicle parking facility;
- h. The construction, reconstruction, alteration, relocation or repair of any flood-control dike, dam, floodway or drainage facility;
- i. The construction, reconstruction, installation and equipping of a park, playground or neighborhood facility;
- j. Any other local improvement for which an assessment may be made on the property specially benefited.

"Local improvement district" means the properties, which are to be assessed for the cost or part of the cost of local improvement and the properties that have benefited by all or part of the improvement.

"Lot" means lot, block or parcel of land.

"Owner" means the owner of the title to real property, or the contract purchaser of real property, of record as shown on the last available complete assessment roll in the Office of County Assessor.

(Ord. 85-40 §3; Ord. 02-04)

§ 13.04.020. Initiation of Local Improvement District.

1. Initiation of District Formation Process.
 - a. The local improvement district formation process may be initiated in one of the following ways:
 - (1) The Council may initiate the formation of the district and the making of the improvement on its own motion.
 - (2) The property owners owning at least fifty percent of the property benefited by

the local improvement may by written petition request the Council to form the district and make the improvement.

2. Resolution to Prepare Preliminary Engineer's Report.
 - a. Based on a staff report prepared by the City Engineer addressing the factors in favor of and against formation of a local improvement district, the Council shall:
 - (1) Adopt a resolution directing that a preliminary engineer's report be prepared; or
 - (2) Direct staff to terminate work on the proposed district. The Council may also direct staff to terminate work on the local improvement.
 - b. The resolution directing that a preliminary engineer's report be prepared may include alternatives that the Council intends for staff to consider.

(Ord. 85-40 §4; Ord. 02-04)

§ 13.04.030. Fees—Report and Recommendation—Resolution.

1. Fee for engineer's report. If the process is initiated by petition of property owners, the petitioners shall pay in advance the cost of preparing the engineer's report. Preparation of the engineer's report shall not commence until the fee is paid.
2. Preliminary Engineer's Report.
 - a. The City Engineer shall have a preliminary engineer's report prepared. The report shall:
 - (1) Include the scope of the work, location of the proposed improvements, financial information, the proposed district boundaries, estimated costs, and other relevant information which go to the feasibility of the proposed improvement and the district. If it is determined that it is necessary to enter onto property within the proposed district for surveying or other engineering purposes, the preliminary engineer's report shall include an adequate description of the properties to be entered upon and a detailed description of the work to be done on the properties.
 - (2) Recommend approval, approval with conditions or denial.
 - b. The engineer's report may contain a suggested allocation of costs to be paid by benefited property owners and may include a suggested method of spreading the anticipated assessment.
 - c. As an alternative to procedures outlined in 13.04.030.2.a of this Section, the City Engineer may authorize entry upon any property within the proposed district pursuant to and for the purpose outlined in ORS 223.010. Within a reasonable time after the entry upon the land, the City Engineer shall report to the Council on the results of the entry.
3. Project Priorities. The City by rule may establish standards for prioritizing projects.
4. Recommendation to Council.
 - a. The City Engineer shall prepare a recommendation to the Council. The

recommendation shall address:

- (1) The project feasibility based on the preliminary engineer's report;
 - (2) Any previously adopted rules establishing priorities of projects.
 - b. The recommendation may include a proposed apportionment of costs to be assessed against the benefited properties and may include a proposed method of spreading the assessment.
5. Resolution of Intention.
- a. The Council shall consider the City Engineer's recommendation and shall decide whether to declare its intention to form the district and to make the public improvements. No public hearing shall be required.
 - b. The resolution of intention shall:
 - (1) Describe the general nature, location and extent of the proposed local improvement and of the proposed local improvement district;
 - (2) Declare the Council's intention to make the improvement;
 - (3) Indicate the method and manner of carrying out the improvement;
 - (4) Contain an estimate of the probable total cost of the improvement;
 - (5) Set a public hearing on the improvement; and
 - (6) Direct that notice be given of the proposed improvement and of the public hearing.
 - c. The resolution of intention may set forth a proposed determination of the portion of the total costs to be assessed against the benefited properties and may set forth a proposed method of spreading the assessments. If a proposed allocation of costs or proposed method of spreading the assessments is included in the resolution, the resolution shall state that the allocation of costs and method of assessment are only tentative and that they may be altered by the City at the time of final assessment.
 - d. The resolution of intention may include alternative proposals relating to a proposed local improvement; provided, however, that all of the information required for a particular local improvement shall be included for each alternative proposal.

(Ord. 85-40 §5; Ord. 86-21 §1; Ord. 86-37 §1; Ord. 02-04)

§ 13.04.040. District Formation—Public Hearing—Ordinance.

1. Alternative Procedures.

- a. The Council may form an improvement district and initiate and construct a local improvement without publishing or mailing notice to the owners of specifically benefited property and without holding a public hearing on the matter when all of the owners of the specifically benefited and assessed property have signed a petition which has been directed and presented to the Council requesting the improvement and formation of the district and the petitioners have signed a waiver of the right to

remonstrate against the formation of the district and against the method for the spread of the assessment.

- b. The Council shall publish notice, give individual mailed notice and hold a public hearing in all other situations.

2. Notice of Hearing.

- a. The City Engineer shall give at least ten days' notice to the property owners within the proposed district of the public hearing on the formation of the district and the local improvement by:

- (1) Publication in a newspaper of general circulation within the City. Only one publication is required; and
 - (2) Mailing a copy of the notice by first-class mail to the owner(s) of each lot affected by the proposed improvement.

- b. The notice shall contain:

- (1) A general description of the proposed local improvement and the property to be specially benefited thereby. The description of property need not be by metes and bounds but shall be such that an average person can determine from it the general location of the property;
 - (2) An estimate of the total cost of the improvement;
 - (3) The date, time and place of the public hearing;
 - (4) A statement of a place where preliminary project design and other additional information concerning the improvement is available to the public;
 - (5) Information concerning any proposed allocation of costs or method of assessment included in the resolution of intention;
 - (6) A statement that the purpose of the hearing is to hear remonstrances and that in order to be considered all written and oral remonstrances must be received by the close of the hearing;
 - (7) A statement that the Council may modify the proposed boundaries or proposed local improvement;
 - (8) A statement that the costs and any proposed allocation of costs or method of assessments are proposals only and that the actual assessment will be based on the actual costs and on a method of assessment to be determined only after the local improvement is completed; and
 - (9) Any other information the Council may direct to be included.

- c. Any mistake, error, omission or failure with respect to mailing of notice shall not be jurisdictional or invalidate the local improvement proceedings.

3. Hearing Procedure.

- a. The Council shall hold a public hearing and shall consider oral and written testimony.

- b. The Council may order the improvement to be made and the district to be formed as provided by this chapter.
 - c. An order to form the district and to make an improvement shall be made by ordinance within ninety days after the date of the final hearing.
4. Decision to Make Improvement and Form District.
 - a. Remonstrances.
 - (1) The Council shall not proceed with the formation of the district and the making of the improvement when the property owners owning two-thirds of the property area within this district to be specially assessed remonstrate against the improvement. This provision shall not apply in case of an emergency or to sidewalks as provided by the Charter.
 - (2) All remonstrances shall be filed with the City Recorder by the close of the initial public hearing. Thereafter, no remonstrance shall be considered except from persons receiving new notice. In situations where new notice is given, remonstrances shall be filed by the close of the public hearing for which new notice was given.
 - (3) In the case of multiple owners of a particular parcel of land, each remonstrating owner shall be counted as a fraction of a vote to the extent of their interest in the property.
 - (4) Any person acting as an attorney or agent with power to act in signing a remonstrance shall, in addition to describing the property affected, file with the remonstrance a copy in writing of the authority to represent the owner of the property.
 - (5) A remonstrance may be withdrawn any time up until the close of the hearing for the purpose of considering remonstrances.
 - b. Council Discretion Not to Form District. The Council may decide not to proceed with the formation of the district and the making of the improvement when the petition has been signed by less than one-half of the benefited property owners, the district is deemed to be untimely or not in the best interests of the City.
 5. Modification to Scope of Improvement or District.
 - a. Based on testimony at the hearing, the Council may make modifications to the scope of the improvement or the district boundary.
 - b. A new resolution of intent shall be adopted, new estimates made and a new individual notice mailed to the owners within the proposed district when the scope of the improvement is modified so that the assessment is likely to increase on one or more properties. A new hearing shall be held.
 - c. A new resolution of intent shall not be required when properties are added or deleted from the proposed district and it is not likely to increase the assessment on one or more properties within the boundaries of the initial proposed district. The hearing shall be reopened when the proposed district is enlarged to include additional

properties when the owners have not made a specific request in writing to be included within the district when the assessment will not be increased on other properties, individual notice shall be mailed only to the newly included property owners and the hearing shall be limited to testimony from the owners of the newly included properties. Ten days shall be given for remonstrance. All remonstrances from the newly included property shall be filed in writing with the City Recorder or withdrawn by the close of the reopened hearing.

6. Formation of District. The Council shall provide for the establishment of the local improvement district and making of the improvement by the adoption of an ordinance to form the district.

(Ord. 85-40 §6; Ord. 87-13 §1; Ord. 02-04)

§ 13.04.050. Improvements—Final Plan And Specifications—Resolution Accepting.

1. The plans and specifications and improvements may be made in whole or in part by the City, by another governmental agency, by contract or by any combination thereof.
2. The City Engineer shall:
 - a. Cause the necessary rights-of-way and easements to be acquired and the improvements to be made in accordance with the terms of the ordinance to form the district; and
 - b. Cause final plans and specifications to be prepared and filed.
 - (1) Unless stated otherwise in the final plan and specifications, all technical requirements for the proposed improvements, such as curb heights, overlay thicknesses, etc., shall be those on file with the City Engineer as the approved requirements for all construction within the City.
 - (2) A description of all necessary rights-of-way and easements shall be included in the final plan and specifications. Easements may be acquired for any necessary public use within the district and may include easements for access to properties that would otherwise have no public access or would have inadequate public access.
3. The contract bid process shall be in accordance with the City's purchasing rules.
4. The resolution accepting the final report which may include sections on the improvement, finance and legal summaries.

(Ord. 85-40 §7; Ord. 86-21 §§3 and 4; Ord. 02-04)

§ 13.04.055. Public Hearing on Final Plans and Specifications.

1. When City Council deems it in the best interest of the public, or when a material defect in the preliminary plans and specifications of the local improvement district has been found, a public hearing on the final plans and specifications may be called. The Council may cure defects, or delete portions of the plans which have been declared void or set aside for any reason, and make necessary additions to the information in Section 13.04.030.2.a, the preliminary engineer's report.
2. The notice of public hearing shall follow Section 13.04.040.2.

3. Hearing Procedure. The City Council shall consider oral and written testimony.
(Ord. 85-40 §7.1; Ord. 86-21 §2; Ord. 02-04)

§ 13.04.060. Assessment—Notice and Public Hearing—Ordinance.

1. Costs and Expenses. The costs and expenses of local improvements that may be assessed against the property specially benefited by the improvement shall include, but not be limited to:
 - a. The costs of any necessary property, right-of-way or easement acquisition and condemnation proceedings;
 - b. Engineering and survey costs;
 - c. The costs of construction and installation of improvements;
 - d. The costs of preliminary studies, and reports of usable work done on previous proposals within the proposed district boundary which were not paid by the district because the proposal was abandoned;
 - e. Advertising, legal, administrative, survey, engineering, notice, supervision, materials, labor, contracts, equipment, inspection and assessment costs;
 - f. Financing costs including interest charges;
 - g. Attorney's fees;
 - h. Any other necessary expenses; and
 - i. The costs of all administrative expenses, including legal fees, expended on a previously instituted improvement within the district boundary, where the previous improvement was abandoned, delayed by litigation or otherwise not completed as planned.
2. Method of Assessment—Types of Assessment.
 - a. The Council in adopting a method of assessment of the costs of any local improvement may:
 - (1) Use any reasonable method of determining the extent of the local improvement district consistent with the benefits derived; and
 - (2) Use any reasonable method of apportioning the sum to be assessed between the properties determined to be specially benefited.
 - b. The Council shall use a final assessment procedure. Final assessment begins after the project is completed and is based on actual costs.
 - c. Upon the completion of the improvement, the benefited property owners will be finally assessed proportionate to the benefits derived from the improvement based on the method of assessment adopted by the City Council, and these assessments will be used to repay the indebtedness and the interest on the indebtedness. The final assessments under this procedure shall be eligible for payment in installments, as outlined in Section 13.04.070.2. The final assessments under this Section shall be

entered in the City's lien docket and shall become a lien on the assessed property, as outlined in Section 13.04.080.1. The liens created by these assessments may be placed as security for any indebtedness incurred by the City to cover the costs of the proposed improvement.

3. Assessment Procedure.

- a. Upon completion of the local improvement, the City Engineer shall:
 - (1) Propose the portion of the total costs to be paid by the benefited properties and propose a method for spreading the assessments among the specially benefited properties;
 - (2) Prepare the proposed assessments for each lot within the improvement district based on the proposed allocation of costs and method of assessments;
 - (3) File the assessments with the Finance Director; and
 - (4) Submit the assessments to the Council in the form of an assessment resolution.
- b. In preparing the proposed cost allocation and method of assessment, the City Engineer shall provide a written explanation if the proposed cost allocation or method of assessment differs from any cost allocation or method of assessment previously proposed.
- c. The Council shall review the proposed assessments and may make modifications. The Council shall adopt an assessment resolution and shall direct that notice of proposed assessments to be given and that a public hearing shall be held to consider objections.
- d. Notice of the proposed assessments shall be given at least ten days prior to the hearing and it shall be mailed or personally delivered to the owner(s) of each property to be assessed or if personal service cannot be had, then by publication once a week for two consecutive weeks in a newspaper of general circulation in the City. The notice shall contain the following information:
 - (1) The name of the owner, the description of the property assessed, the total cost assessed against benefited property and the amount of the assessment against the described property;
 - (2) The proposed cost allocation and method of assessment.
 - (3) A date and time by which written objections to the proposed assessment stating specifically the grounds for objection must be received and the date, time and place of a public hearing at which the Council will consider written objections; and
 - (4) A statement that the assessment in the notice or as it may be modified by the Council will be levied by the Council after the hearing and that the assessment then will be charged against the property and be immediately payable in full or in installments, if applicable.
- e. Supplementary notice of the proposed assessment and public hearing on it, in form and content to be determined by the Finance Director, may also be published or posted by the Finance Director.

- f. Any mistake, error, omission or failure with respect to mailing of notice shall not be jurisdictional or invalidate the assessment proceedings, but there shall be no foreclosure or legal action to collect until notice has been given by personal service upon the property owner or, if personal service cannot be had, then by publication once a week for two consecutive weeks in a newspaper of general circulation in the City.
- g. The Council shall hold the public hearing on the proposed assessments to consider those objections filed in writing and may adopt, correct, modify or revise the proposed assessments. The Council shall determine the amount of assessment to be charged against each lot within the local improvement district according to the special and peculiar benefits accruing thereto from the improvement.
 - h. The Council shall spread the assessment by ordinance.

(Ord. 85-40 §8; Ord. 86-21 §§5 and 6; Ord. 02-04)

§ 13.04.070. Finance and Closure.

- 1. Notice of Assessment.
 - a. The Finance Director shall send notice by first-class mail within ten days after the effective date of the ordinance spreading the assessment.
 - b. The notice shall state the following:
 - (1) The effective date of the ordinance levying the assessment, the name of the owner of the property assessed, the amount of the specific assessment and a description of the property assessed;
 - (2) A statement that an application may be filed to pay the assessment in installments in accordance with the provisions of Section 13.04.070.2;
 - (3) A statement that the entire amount of the assessment, less any part for which application to pay in installments is made, is due within thirty days of the date of the notice and, if unpaid on that date, will accrue interest and subject the property to foreclosure.
 - c. Supplementary notice of assessment, in form and content to be determined by the Finance Director, may also be published or posted by the Finance Director.
- 2. Installment Payments.
 - a. The owner of any property assessed for an improvement in the sum of five hundred dollars or more, at any time within ten days after notice of such assessment is first given, may file with the Finance Director a written application to pay in installments.
 - b. The Finance Director shall accept the written application to pay in installments unless the amount remaining unpaid on the current assessment together with the unpaid balance of any previous assessments for improvements against the same property exceeds the real market value of the property.
 - c. The written application shall:
 - (1) State that the applicant and property owner does waive all irregularities or

defects, jurisdictional or otherwise, in the proceedings to cause the improvement to be constructed or made for which the assessment is levied and in the apportionment of the cost; and

- (2) State that the applicant or property owner understands the terms and conditions of the City's payment policies including the penalties for nonpayment.
 - d. The Finance Director shall set interim and final interest rates for the financing of improvements, assumption of payments resulting from a transfer of ownership, and service charges for late payments.
 - (1) The interim interest rate shall be equal to the U.S. Government Bond Ask Rate for the expected financing maturity date or an equal index as determined by the Finance Director as of the 1st of the month in which the application for installment financing is signed, plus 2%.
 - (2) The final interest shall be equal to the interest rate the City is charged on bonds issued to finance the assessment, plus 1.25%.
 - e. The Council by resolution shall declare a payment due and payable after one year of delinquency, and the entire balance shall become immediately due. The resolution shall give the name of the owner then in default in the payment of the sums due, either principal or interest, together with a description of the property upon which the sums are owing and declaring the whole sum, both principal and interest, due and payable at once. The Finance Director is then directed to proceed at once to collect all unpaid installments and to enforce collection thereof, with all penalties added thereto, in the same manner as described in 13.04.070.1.b.3 of this Section.
 - f. Whenever the owner of property changes through the sale or transfer of land, or the division of land, the total assessment balance plus interest may be assumed subject to the following conditions. The City shall not allow an assumption, if the assessment balance is less than \$3,000. An assumption fee, which shall be set by resolution of the City Council, and fees for recording the lien and the release of the lien will be charged. The City shall not allow an assumption, if the buyer of the property has a history of slow or delinquent payment on other debt to the City. Assumptions for assessments shall be at the rate charged to the owner of the property at the time of assessment.
3. Reassessments.
- a. The Council may make: (1) a new assessment or (2) a reassessment in the manner provided by this subsection when:
 - (1) The Council is in doubt as to the validity of all or a part of an assessment by reason of defects in procedure; or
 - (2) All or a part of any assessment has been or is declared void or set aside for any reason or its enforcement is refused by a court having jurisdiction.
 - b. Basis for Amount and Method of Reassessment.
 - (1) The reassessment shall be based upon the special and peculiar benefit of the improvement to the respective lots at the time of the original making of the

improvement.

- (2) The amount of the reassessment shall not be limited to the amount of the original final assessment, but the property embraced in the reassessment shall be limited to property embraced in the original assessment. If a property has paid the original final assessment in full, that property shall not have to pay the reassessment. In determining the amount of the reassessment, the Council shall not increase the amount assessed against any property based on the fact that one or more properties have paid the original assessment in full.
- (3) Interest from the date of delinquency of the original final assessment may be added by the Council to the reassessment in cases where the property was included in the original final assessment, but such interest shall not apply to any portion of the reassessment that exceeds the amount of the original final assessment.
- (4) The reassessment shall be made in an equitable manner as nearly as may be in accordance with the law in force at the time the local improvement was made, but the Council may adopt a different plan of apportioning benefits or exclude portions of the district when in its judgment it is essential to secure an equitable assessment.
- (5) Credit shall be allowed on the reassessment for all payments made on the original assessment.

c. Procedure.

- (1) The reassessment shall be initiated by adoption of a resolution which:
 - (a) Designates the improvement as to which a reassessment is contemplated;
 - (b) Describes the boundaries of the district that the Council contemplates for the reassessment; and
 - (c) Directs the Finance Director to prepare a proposed reassessment upon the property included within the district subject to reassessment.
- (2) Upon passage of the reassessment resolution, the Finance Director shall prepare the proposed reassessment and file it in the office of the City Recorder.
- (3) The Finance Director shall give notice of the reassessment by not less than four successive publications in a newspaper published in the City and, if there is no newspaper published in the City, in a newspaper to be designated by the Council.
- (4) The notice shall state:
 - (a) The proposed reassessment is on file in the office of the City Recorder;
 - (b) The date of the passage of the resolution authorizing it;
 - (c) The boundaries of the district or a statement of the property affected by the proposed reassessment; and

- (d) The date, time and place where the Council will hear and consider objections to the proposed reassessment by any party aggrieved thereby.
- (5) The Finance Director shall mail within five days after the first date of publication of notice to the owner of each lot affected, a copy of the notice of the proposed reassessment as provided in paragraph 13.04.070.3.c.4 of this subdivision together with a statement of the amount proposed to be charged against the lot.
- (6) Any person having an interest in the affected property may, within ten days from the day of the last insertion of the printed notice, file in writing with the City Recorder objections against the proposed reassessment.
- (7) The Council shall hear and determine all objections filed under paragraph 13.04.070.3.c.5 of this subdivision. The Council may continue the hearing to correct, modify or revise the proposed reassessment or set it aside and order a new proposed assessment. A change which results in an increase in the amount proposed to be charged against any property shall require:
- (a) New published notice for not less than two successive insertions in a newspaper as provided by paragraphs 13.04.070.3.c.3 and 13.04.070.3.c.4 of this subdivision; and
- (b) New individual notice as provided under paragraph 13.04.070.3.c.5 of this subdivision to the owners of property against which the amount of assessment is proposed to be increased.
- (8) In situations where paragraph 13.04.070.3.c.7 of this subdivision applies, the Council shall not take action until at least five days after the date of the last publication.
- d. Reassessment Ordinance—Lien Docket Entry-Crediting Prior Payments.
- (1) The reassessment shall be by ordinance.
- (2) The reassessment shall be entered into the City's lien docket.
- (3) All provisions for bonding and paying by installments shall be applicable and such City liens shall be enforced and collected in the manner provided for collection of liens for an original improvement.
- (4) All sums paid upon the original final assessment or for the same improvement shall be credited to the property on account of which it was paid and as of the date of payment.
4. Abandonment of Proceedings.
- a. The Council shall have full power and authority to abandon and rescind proceedings for local improvements made pursuant to this chapter at any time prior to the full completion of the improvements.
- b. If the Council has abandoned and rescinded the district, liens which have been assessed upon any property under the provisions of this chapter shall be canceled and payments made on the improvements shall be refunded to the person or the person's

assigns or successors, paying the same.

5. Curative Provisions.

- a. No improvement assessment shall be rendered invalid by a failure to:
 - (1) Provide all of the information required to be in any City Engineer's or other report, the resolution of intention, the assessment ordinance, reassessment, the City lien docket or notice required to be mailed, published or posted;
 - (2) Give in any report, in the proposed assessment, in the assessment ordinance, in the lien docket or elsewhere in the proceedings, the name of the owner of any lot, tract or parcel of land or the name of any person having a lien upon or interest therein, or by a mistake in the name of any such person having a lien upon or interest in such property, or by reason of any error, mistake, delay, omission, irregularity or other act, jurisdictional or otherwise, in any of the proceedings or steps specified in this paragraph;
 - (3) The Council shall have the power and authority to remedy and to correct all matters by suitable action and proceedings.
- b. Any mistake, error, omission or failure with respect to notice shall not be jurisdictional or invalidate the proceedings.

(Ord. 85-40 §9; Ord. 96-26 ; Ord. 02-04)

§ 13.04.080. Administration.

1. Entry In City Lien Docket.
 - a. The Finance Director shall enter in the City lien docket:
 - (1) A statement of the amounts assessed on each particular lot, parcel of land or portion thereof;
 - (2) A description of the improvement;
 - (3) The name of the owner(s); and
 - (4) The date of the assessment ordinance.
 - b. Upon entry into the lien docket, the amount entered shall become a lien on the respective lots, parcels of land or portions thereof which have been assessed for the improvement.
 - c. All assessment liens of the City shall be superior and prior to all other liens and encumbrances on the property.
2. Filing of Resolution and Ordinance.
 - a. The Finance Director shall file a copy of the ordinance to form the district establishing the local improvement district and the ordinance spreading the assessment with the Director of Records and Elections of Washington County.
 - b. Failure to file the resolution or ordinance shall not invalidate or affect any proceedings in connection with the local improvement district and shall not impose

any liability on the City or any official, Officer or employee of the City.

3. Segregation of Liens.

- a. A lien against the real property in favor of the City may be segregated on application by the owner(s) subject to satisfying the provisions of this section and the rules adopted by the Council or by action of the City.
 - b. Applications shall be made to the Finance Director and shall include:
 - (1) A legal description of each tract to be segregated;
 - (2) The names of the owner of the tracts and the name of each person who will own each parcel should the segregation be approved; and
 - (3) A certificate from the County Assessor showing the assessed valuation of each tract as of January 1st of the year in which the segregation is requested, if available; otherwise, as of January 1st of the preceding year.
 - c. No segregation shall be made unless each part of the original tract of land after the segregation has a real market value of one hundred twenty percent or more of the amount of the lien as to each segregated tract concerned.
 - d. The Finance Director shall compute a segregation of the lien against the real property on the same basis as it was originally computed and apportioned and shall record the segregation in the lien docket.
 - e. A segregation for the purpose of a lease shall remain the primary obligation of the property owner.
 - f. Failure to apply for segregation shall result in the lien placed upon all lots or parcels. When a payment against the assessment is made it will reduce the amount of all liens.
4. Application of Chapter. The provisions of this chapter shall apply to all future local improvement districts and to the extent further actions or proceedings may be required, to all existing districts.
5. Authority to Adopt Rules. The Council may adopt rules it deems necessary to carry out the formation of local improvement districts and the making of local improvements.

(Ord. 85-40 §10; Ord. 96-26 ; Ord. 02-04)

CHAPTER 13.09 REIMBURSEMENT DISTRICTS

§ 13.09.010. Definitions.

"City Engineer" or "Engineer" means the person holding the position of City Engineer or any officer or employee designated by that person to perform duties stated within this chapter.

"City" means the City of Tigard.

"Person" means a natural person, the person's heirs, executors, administrators, or assigns; a firm, partnership, corporation, association or legal entity, its or their successors or assigns; and any agent employee or any representative thereof.

"Applicant" means a person, as defined in Subsection 13.09.010.3, who is required or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, and who applies to the City for reimbursement for the expense of the improvement. The "applicant" may be the City.

"Street Improvement" means a street or street improvement conforming with standards in the Tigard Community Development Code and including but not limited to streets, storm drains, curbs, gutters, sidewalks, bike paths, traffic control devices, street trees, lights and signs and public right-of-way.

"Water Improvement" means a water or water line improvement conforming with standards in the Tigard Community Development Code and including but not limited to extending a water line to property, other than property owned by the applicant, so that water service can be provided for such other property without further extension of the line.

"Sewer Improvement" means a sewer or sewer line improvement conforming with standards in the Tigard Community Development Code and including but not limited to extending a sewer line to property, other than property owned by the applicant, so that sewer service can be provided for such other property without further extension of the line.

"Reimbursement District" means the area which is determined by the City Council to derive a benefit from the construction of street, water or sewer improvements, financed in whole or in part by the applicant and includes property which has the opportunity to utilize such an improvement.

"Reimbursement Fee" means the fee required to be paid by a resolution of the City Council and the reimbursement agreement.

(Ord. 94-10 ; Ord. 96-13)

§ 13.09.020. Application for a Reimbursement District.

1. Any person who is required to or chooses to finance some or all of the cost of a street, water or sewer improvement which is available to provide service to property, other than property owned by the person, may, by written application filed with the City Engineer, request that the City establish a reimbursement district. The street, water and sewer improvements must include improvements in addition to or in a size greater than those which would otherwise ordinarily be required in connection with an application for permit approval and must be available to provide service to property other than property owned by the applicant. Examples include but shall not be limited to full street improvements instead of half street improvements, off site sidewalks, connection of street sections for continuity, extension of water lines and extension of sewer lines. The City may also initiate formation of a

reimbursement district. The application shall be accompanied by a fee, as established by resolution, sufficient to cover the cost of administrative review and notice pursuant to this chapter.

2. The application shall include the following:
 - a. A description of the location, type, size and cost of the public improvement to be eligible for reimbursement.
 - b. A map showing the properties to be included in the proposed reimbursement district; the zoning district for the properties; the front footage or square footage of said properties, or similar date necessary for calculating the apportionment of the cost; and the property or properties owned by the applicant.
 - c. The estimated cost of the improvements as evidenced by bids, projections of the cost of labor and materials, or other evidence satisfactory to the City Engineer.
 - d. The estimated date of completion of the public improvements.
 - e. Applicant may request a discretionary annual fee adjustment, which, if granted, will be administered pursuant to Section 13.09.115.

(Ord. 94-10 ; Ord. 96-13)

§ 13.09.030. City Engineer's Report.

The City Engineer shall review the application for the establishment of a reimbursement district and evaluate whether a district should be established. The Engineer may require the submittal of other relevant information from the applicant in order to assist in the evaluation. The Engineer shall prepare a written report for the City Council, considering and making recommendations concerning the following factors:

1. Whether the applicant will finance some or all of the cost of a street, water or sewer improvement, thereby making service available to property, other than property owned by the applicant;
2. The area to be included in the reimbursement district;
3. The estimated cost of the street, water or sewer improvements within the area of the proposed reimbursement district and the portion of the cost for which the applicant should be reimbursed;
4. A methodology for spreading the cost among the parcels within the reimbursement district and where appropriate defining a "unit" for applying the reimbursement fee to property which may, with City approval, be partitioned, altered, modified, or subdivided at some future date. The methodology should include consideration of the cost of the improvements, prior contributions by property owners, the value of the unused capacity, rate-making principles employed to finance public improvements, and other factors deemed relevant by the City Engineer. Prior contributions by property owners will only be considered if the contribution was for the same type of improvement and at the same location (example: a sewer-related contribution in the same location as a sewer improvement would be considered, a water-related contribution in the same location as a sewer improvement would not be considered);

5. The amount to be charged by the City for administration of the district by the City. The administration fee shall be fixed by the City Council and will be included in the resolution approving and forming the reimbursement district. If the applicant is other than the City, the administration fee is due and payable to the City at the time the agreement in Section 13.09.070.2 is signed. If the City is the applicant, the administration fee shall be included in the reimbursement fee and is due and payable at the time there is an obligation to pay the reimbursement fee as required by Section 13.09.110.
6. The period of time that the right to reimbursement exists if the period is less than fifteen years.
(Ord. 94-10 ; Ord. 96-13 ; Ord. 01-11A §1)

§ 13.09.040. Amount to Be Reimbursed.

1. The cost to be reimbursed to the applicant, if other than the City, shall be limited to the cost of construction, engineering, and off-site right of way. If the applicant is the City, the costs to be reimbursed shall also include an administration cost and all costs associated with the acquisition of easements and rights of way. Engineering shall include surveying and inspection and shall not exceed 13.5% of eligible construction cost. If the applicant is other than the City, the costs to be reimbursed for right of way shall be limited to the reasonable market value of land or easements purchased by the applicant from a third party to complete off-site improvements.
2. No reimbursement shall be allowed for financing costs, permits or fees required for construction permits, land or easements dedicated by the applicant, costs which are eligible for traffic impact fee credits or systems development charge credits, or any costs which cannot be clearly documented.
3. No reimbursement shall be allowed for construction costs that occur prior to the formation date of the reimbursement district.
4. Reimbursement for legal expenses shall be allowed only to the extent that such expenses relate to the preparation and filing of an application for reimbursement, and to working with the City through the Engineer's Report and formation public hearing stages of an application.
5. A reimbursement fee shall be computed by the City for all properties which have the opportunity to utilize the improvements, including the property of the applicant for formation of a reimbursement district. The applicant for formation of the reimbursement district shall not be reimbursed for the portion of the reimbursement fee computed for the property of the applicant.

(Ord. 94-10 ; Ord. 96-13 ; Ord. 01-11A §2)

§ 13.09.050. Public Hearing.

Within a reasonable time after the City Engineer has completed the report required in Section 13.09.030, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the proposed reimbursement district. Because formation of the reimbursement district does not result in an assessment against property or lien against property, the public hearing is for informational purposes only and is not subject to mandatory termination because of remonstrances. The City Council has the sole discretion after the public

hearing to decide whether a resolution approving and forming the reimbursement district shall be adopted.

(Ord. 94-10 ; Ord. 96-13)

§ 13.09.060. Notice of Public Hearing.

Not less than 10 nor more than 30 days prior to any public hearing held pursuant to this chapter, the applicant and all owners of property within the proposed district shall be notified of such hearing and the purpose thereof. Such notification shall be accomplished by either regular mail or personal service. If notification is accomplished by mail, notice shall be mailed not less than 13 days prior to the hearing. Notice shall be deemed effective on the date that the letter of notification is mailed. Failure of the applicant or any affected property owner to be so notified shall not invalidate or otherwise affect any reimbursement district resolution or the City Council's action to approve the same.

(Ord. 94-10)

§ 13.09.070. City Council Action.

1. After the public hearing held pursuant to Section 13.09.050, the City Council shall approve, reject or modify the recommendations contained in the City Engineer's report. The City Council's decision shall be embodied in a resolution. If a reimbursement district is established, the resolution shall include the City Engineer's report as approved or modified.
2. When the applicant is other than the City, the resolution shall instruct the City Manager to enter into an agreement with the applicant pertaining to the reimbursement district improvements. The agreement shall be contingent upon the improvements being accepted by the City. The agreement, at a minimum, shall contain the following provisions:
 - a. The public improvement(s) shall meet all applicable City standards.
 - b. The estimated total amount of potential reimbursement to the applicant.
 - c. The applicant shall defend, indemnify and hold harmless the City from any and all losses, claims, damage, judgments or other costs or expense arising as a result of or related to the City's establishment of the district.
 - d. The applicant shall acknowledge that the City is not obligated to collect the reimbursement fee from affected property owners.
 - e. Other provisions as the City Council determines necessary and property to carry out the provisions of this chapter.
3. If a reimbursement district is established by the City Council, the date of the formation of the district shall be the date that the City Council adopts the resolution forming the district.
4. The City Council resolution and reimbursement agreement shall determine the boundaries of the reimbursement district and shall determine the methodology for imposing a fee which considers the cost of reimbursing the applicant for financing the construction of a street, water or sewer improvement within the reimbursement district.

(Ord. 94-10 ; Ord. 96-13)

§ 13.09.080. Notice of Adoption of Resolution.

The City shall notify all property owners within the district and the applicant of the adoption of a reimbursement district resolution. The notice shall include a copy of the resolution, the date it was adopted and a short explanation of when the property owner is obligated to pay the reimbursement fee and the amount of the fee.

(Ord. 94-10)

§ 13.09.090. Recording the Resolution.

The City Recorder shall cause notice of the formation and nature of the reimbursement district to be filed in the office of the County Recorder so as to provide notice to potential purchasers of property within the district. Said recording shall not create a lien. Failure to make such a recording shall not affect the legality of the resolution or the obligation to pay the reimbursement fee.

(Ord. 94-10)

§ 13.09.100. Contesting the Reimbursement District.

No legal action intended to contest the formation of the district or the reimbursement fee, including the amount of the charge designated for each parcel, shall be filed after 60 days following adoption of a resolution establishing a reimbursement district.

(Ord. 94-10)

§ 13.09.105. Final Public Hearing.

1. Within three months after completion and acceptance of the improvements, the applicant shall submit to the City Engineer the actual cost of the improvements as evidenced by receipts, invoices or other similar documents. The City Engineer shall review the actual costs and shall prepare a written report for the City Council recommending revisions to the report prepared under Section 13.09.030.
2. The final cost shall not exceed by more than 10% the cost estimated at the time of reimbursement district formation unless an exception is approved by the City Council. An exception may be approved only if the applicant can show legitimate circumstances beyond the control of the applicant which cause the cost increase.
3. Within a reasonable time after the City Engineer has completed the report required in Subsection 13.09.105.1, the City Council shall hold an informational public hearing in which any person shall be given the opportunity to comment on the recommended revisions.
4. Failure to provide the documentation required by this section shall result in the automatic lapse of any resolution adopted by the City Council pursuant to Section 13.09.050. Following the final public hearing provided for herein, and subject to the limitations provided for herein, the City Council shall have the authority to approve, rescind, or modify the reimbursement district.

(Ord. 96-13)

§ 13.09.110. Obligation to Pay Reimbursement Fee.

1. The applicant for a permit related to property within any reimbursement district shall pay

the City, in addition to any other applicable fees and charges, the reimbursement fee established by the Council, if within the time specified in the resolution establishing the district, the person applies for and receives approval from the City for any of the following activities:

- a. A building permit for a new building;
 - b. Building permit(s) for any addition(s), modification(s), repair(s) or alteration(s) of a building, which exceed 25% of the value of the building within any 12-month period. The value of the building shall be the amount shown on the most current records of the County Department of Assessment and Taxation for the building's real market value. This paragraph shall not apply to repairs made necessary due to damage or destruction by fire or other natural disaster;
 - c. Any alteration, modification or change in the use of real property, which increases the number of parking spaces required under the Tigard Community Development code in effect at the time of permit application;
 - d. Connection to or use of a water improvement, if the reimbursement district is based on the water improvement;
 - e. Connection to or use of a sewer improvement, if the reimbursement district is based on the sewer improvement;
 - f. Connection to or use of a street improvement, if the reimbursement district is based on the street improvement.
2. The City's determination of who shall pay the reimbursement fee is final. Neither the City nor any officer or employee of the City shall be liable for payment of any reimbursement fee or portion thereof as a result of this determination.
 3. A permit applicant whose property is subject to payment of a reimbursement fee receives a benefit from the construction of street improvements, regardless of whether access is taken or provided directly onto such street at any time. Nothing in this ordinance is intended to modify or limit the authority of the City to provide or require access management.
 4. No person shall be required to pay the reimbursement fee on an application or upon property for which the reimbursement fee has been previously paid, unless such payment was for a different type of improvement. No permit shall be issued for any of the activities listed in Subsection 13.09.110.1 unless the reimbursement fee has been paid in full. Where approval is given as specified in Subsection 13.09.110.1, but no permit is requested or issued, then the requirement to pay the reimbursement fee lapses if the underlying approval lapses.
 5. The date when the right of reimbursement ends shall not extend beyond fifteen years from the district formation date.
- (Ord. 94-10 ; Ord. 96-13)

§ 13.09.115. Annual Fee Adjustment.

The City Council may grant an annual fee adjustment at the time of application for formation of a reimbursement district as provided in this section.

1. An annual fee adjustment shall be applied to the reimbursement fee beginning on the first anniversary of the date of the reimbursement agreement as a return on the investment for the person or the City. The annual fee adjustment shall be fixed and computed against the reimbursement fee as simple interest and will not compound. The amount of the fee adjustment shall be determined at the time that a district is formed and shall be the same each year.
2. Each fiscal year, the Finance Director shall recommend to the City Council an interest rate to be used in determining the annual fee adjustment for reimbursement districts. The City Council shall consider the recommendation of the Finance Director and shall adopt an interest rate to be used in determining the annual fee adjustment. The interest rate adopted by the City Council shall be applied to all reimbursement districts formed during the fiscal year, for which annual fee adjustments are approved.

(Ord. 96-13)

§ 13.09.120. Administration.

1. The right of reimbursement is assignable and transferable after written notice is delivered to the City, advising the City to whom future payments are to be made.
2. The City shall establish separate accounts for each reimbursement district. Upon receipt of a reimbursement fee, the City shall cause a record to be made of that property's payment and remit the fee to the person who requested establishment of the reimbursement district or their assignee.
3. The reimbursement fee is in lieu of a local improvement district charge for the improvements installed pursuant to the reimbursement district agreement. The reimbursement fee is not intended to replace or limit any other fee or charge collected by the city.

(Ord. 94-10 ; Ord. 01-26)

CHAPTER 13.12 ECONOMIC IMPROVEMENT DISTRICTS

§ 13.12.010. Definitions.

The following words and phrases, when used in this ordinance shall have the following meanings, except where the context requires otherwise:

"Economic improvement" means:

1. The planning or management of development or improvement activities;
2. Landscaping, enhancement, maintenance and provision of security for public areas;
3. Promotion of commercial activity or public events;
4. Activities in support of business recruitment and development;
5. Improvements in parking systems or parking enforcement;
6. Any other economic improvement activity that specially benefits specific properties.

"Economic improvement plan" means a plan setting out:

1. A description of economic improvements proposed to be carried out, with any appropriate phasing plan or schedule;
2. The number of years, to a maximum of five, in which assessments are proposed to be levied;
3. A preliminary estimate of annual cost of the proposed economic improvements;
4. The proposed boundaries designated by map or perimeter description of an economic improvement within which subject properties would be assessed to finance the cost of the economic improvement;
5. The proposed formula for assessing the cost of economic improvements against subject properties, which formula may be an assessment based on the assessed value or area of the property involved, or a surcharge on the business tax on any business, trade, occupation or profession carried on or practiced in the economic improvement district, or both;
6. A statement whether the property assessment will be a voluntary assessment or mandatory assessment;
 - A. If voluntary, that the scope and level of improvements could be reduced depending on the amount of money collected; or
 - B. If mandatory, that the assessment will be considered a tax under the Oregon Constitution, Article XI Section 11(b) and may be reduced to fit within the property tax limitation thereby affecting the level and scope of services described.
7. If applicable, information about the organization requesting the creation of the economic improvement district;
8. Reasons why the economic improvement district should be created;

9. If applicable, a list of anticipated agreements between the proposed economic improvement district and other organizations;
10. The administration fee, if any, to be paid to the City of administering the economic improvement district.

"Owner" means the owner of the title to real property or the contract purchaser of record shown on the last available complete assessment roll in the office of the County Assessor.

§ 13.12.020. Economic Development Plan.

The City Council may consider creation of an economic improvement district on its own motion or at the request of any person, entity, association, or City staff. Any request for consideration of the creation of an economic improvement district shall contain a proposed economic improvement plan. If the City Council decides to consider such a district on its own motion, it shall instruct the City staff to prepare an economic improvement plan. If an organization is willing to carry out improvement activities, City staff shall coordinate with that organization in developing the economic improvement plan.

§ 13.12.030. Notice.

A public hearing before the City Council shall be held on the question of establishment of the economic improvement district. Notices of the proposed hearing shall be mailed or delivered personally to affected property owners and business owners, and shall announce the intention of the City Council to construct or undertake the economic improvement project and to assess benefited properties or impose a business tax surcharge for a part or all of the cost. The notice shall state the time and place of the public hearing. This hearing shall be set not sooner than 30 days after the mailing or delivery.

§ 13.12.040. Hearing.

If, after the hearing held pursuant to Section 13.12.020, the City Council determines that the economic improvements would afford special and peculiar benefit to properties or businesses within the economic improvement district different in kind or degree from that afforded to the general public, and that the economic improvement district should be established, then the City Council may adopt an ordinance stating those findings and establishing the district. The City Council shall then determine whether the properties or businesses benefited shall bear all or a portion of the cost, and shall require notice of any proposed assessment or business tax surcharge be mailed or personally delivered to the owner of each lot to be assessed or business to be charged, which notice shall state the amount of the assessment proposed on the property of the owner receiving the notice, or the charge to the owner of the business receiving the notice. The ordinance shall require the City Finance Director to prepare the proposed assessment of each lot and file it with the City Recorder. The notice shall state the time and place of a second public hearing at which affected property owners or business owners may appear to support or object to the proposed charge. The second hearing shall not be held sooner than 30 days after the mailing or personal delivery of the notices. At the second hearing, the City Council may consider objections and may adopt, correct, modify or revise the proposed assessments or charges. The City Council shall exempt residential real property and any portion of a structure used for residential purposes, those properties exempt from general property taxation under State law, and any other type of property that the City Council determines should be exempt from the assessment. The ordinance shall also provide that the assessments will not be made and the

economic improvement project will be terminated when written objections are received at the second public hearing from owners of property upon which more than 33% of the total amount of the assessments is levied, or if a business tax surcharge is charged, from more than 33% of persons conducting business within the economic improvement district who will be subject to the proposed business tax surcharge.

§ 13.12.050. Voluntary Assessments.

Pursuant to the requirement as set forth above, an assessment ordinance may at the discretion of the City Council, provide that:

- (a) When the City Council receives written objections at the second public hearing only from owners of property upon which less than 33% of the total amount of assessments is levied, the economic improvement project may be undertaken or constructed, but that the assessment shall not be levied on any lot or parcel of property if the owner of that property submitted written objection at the public hearing. Notwithstanding any other provision of law, an owner of property who fails to submit written objections at the public hearing as provided for in the ordinance shall be deemed to have made a specific request for the economic improvement services to be provided during the period of time specified in the assessment ordinance.
- (b) The City Council, after excluding from assessment property belonging to such owners, shall determine the amount of the assessment on each of the remaining lots or parcels in the district.

These provisions may be included only if the City Council chooses to form the economic improvement district as a voluntary district. These provisions shall not be included in any district in which payment is mandatory.

§ 13.12.060. Collection of Assessments.

If written objections in the requisite 33% are not received as provided above, the City Council may adopt a final ordinance levying the appropriate assessments and/or business tax surcharge. Upon adoption of the final ordinance, the City Recorder shall enter any assessments in the docket of City liens. The assessments shall be collected in the same manner as local improvement assessments. Failure to pay may result in foreclosure in the same manner as provided for other such assessments.

§ 13.12.070. Assessment.

Any assessment ordinance may require creation, for each economic improvement district, of an advisory committee to allocate expenditures of monies for economic improvement activities within the scope of this ordinance. If an advisory committee is created, the City Council shall strongly consider appointment of owners of property within the economic improvement district to the advisory committee. An existing association of property owners or tenants may enter into agreement with the City to provide the proposed economic improvement.

§ 13.12.080. Expenditures.

Money derived from assessments or fees levied under the procedures set forth in this ordinance shall be spent only for the economic improvements set forth in the Economic Improvement Plan and for the cost of City administration of the economic improvement district.

City of Tigard, OR

§ 13.12.080

LOCAL IMPROVEMENTS

§ 13.12.080

(Ord. 01-01)

Title 14**BUILDINGS AND CONSTRUCTION**

Chapter 14.04 BUILDING CODE	§ 14.04.010. Title. § 14.04.020. Definitions. § 14.04.030. State Codes Adopted. § 14.04.040. Administration. § 14.04.065. Electrical Program Administration. § 14.04.070. Occupancy Restriction Recordation. § 14.04.090. Violation—Penalty—Remedies. § 14.04.095. Building Official—Authority to Impose Administrative Civil Penalty. § 14.04.098. Appeal Procedures.	§ 14.16.110. § 14.16.120. § 14.16.130. § 14.16.140. § 14.16.150. § 14.16.160. § 14.16.170. § 14.16.180. § 14.16.190. § 14.16.200. § 14.16.210. § 14.16.220. § 14.16.230. § 14.16.240. § 14.16.250. § 14.16.260. § 14.16.270. § 14.16.280. § 14.16.290. § 14.16.300. § 14.16.310. § 14.16.320. § 14.16.330. § 14.16.340. § 14.16.350.	Roofs. Chimneys. Foundations and Structural Members. Exterior Walls and Exposed Surfaces. Stairs and Porches. Handrails and Guardrails. Windows. Doors. Interior Walls, Floors, and Ceilings. Interior Dampness. Insect and Rodent Harborage. Cleanliness and Sanitation. Bathroom Facilities. Kitchen Facilities. Plumbing Facilities. Heating Equipment and Facilities. Electrical System, Outlets, and Lighting. Sleeping Room Requirements. Overcrowding. Emergency Exits. Smoke Alarms and Detectors. Hazardous Materials. Maintenance of Facilities and Equipment. Swimming Pool Enclosures. Special Standards for Single-Room Occupancy Housing Units.
article 14.16 PROPERTY MAINTENANCE REGULATIONS	Part 1 GENERAL	§ 14.16.010. Chapter Title. § 14.16.020. Purpose. § 14.16.030. Scope, Conflict with State Law. § 14.16.040. Application of Titles 14 and 18. § 14.16.050. Use of Summary Headings. § 14.16.060. Definitions, Generally. § 14.16.070. Definitions.	§ 14.16.270. § 14.16.280. § 14.16.290. § 14.16.300. § 14.16.310. § 14.16.320. § 14.16.330. § 14.16.340. § 14.16.350.
	Part 2 STANDARDS	§ 14.16.080. Housing Maintenance Requirements, Generally. § 14.16.090. Display of Address Number. § 14.16.100. Accessory Structures.	

Part 3 DANGEROUS & DERELICT STRUCTURES	§ 14.16.450. Illegal Residential Occupancy. § 14.16.460. Interference with Repair, Demolition, or Abatement Prohibited. § 14.16.470. Violations.
§ 14.16.360. Dangerous and Derelict Structures, Generally.	
§ 14.16.370. Derelict Structures.	
§ 14.16.380. Dangerous Structures.	
	Chapter 14.20 MOVING OF BUILDINGS
Part 4 ENFORCEMENT	§ 14.20.010. Title. § 14.20.020. Definitions. § 14.20.030. Permit Required. § 14.20.040. Permit Application—Fee. § 14.20.050. Plans Required for Permit. § 14.20.060. Protection of Public and Private Property and Utilities. § 14.20.070. Performance Assurance. § 14.20.080. Permit Issuance Conditions. § 14.20.090. Permit Revocation. § 14.20.100. Liability. § 14.20.110. Cleanup. § 14.20.120. Violation—Penalty.
§ 14.16.385. Notice of Status as Derelict or Dangerous Structure.	
§ 14.16.390. Statement of Actions Required.	
§ 14.16.400. Notice of Unsafe Occupancy.	
§ 14.16.410. Abatement of Dangerous Structures.	
§ 14.16.420. Inspections Required, Right of Entry.	
§ 14.16.430. Fee-Paid Inspections for Residential Structures.	
§ 14.16.440. Occupancy of Residential Property after Notice of Violation.	

CHAPTER 14.04 BUILDING CODE

§ 14.04.010. Title.

This chapter shall be known as the building code ordinance and may also be referred to as "this chapter," or the "building code."

(Ord. 86-53 §2)

§ 14.04.020. Definitions.

For the purpose of Sections 14.04.010 through 14.04.090, the following terms shall be defined as follows:

"Building official" means the designee or designees appointed by the director of community development who is responsible for building inspections and enforcement of the building code.

"State building code" means the combined specialty codes as listed in Section 14.04.030.
(Ord. 86-53 §2)

§ 14.04.030. State Codes Adopted.

- A. Except as otherwise provided in this chapter, the following codes, standards and rules are adopted and shall be in force and effect as part of this municipal code. The provisions of these codes, in addition to their individual scoping provisions found therein, shall also apply to demolition of structures, equipment and systems regulated by such codes:
 1. Under the authority of ORS 455.150 (effective 9/5/95), the City of Tigard administers those specialty codes and building requirements adopted by the state which the City of Tigard is granted authority to administer, including: the Structural, Mechanical, Plumbing, Electrical and Residential Specialty Codes; mobile or manufactured dwelling parks requirements; temporary parks requirements; manufactured dwelling installation, support and tiedown requirements and park or camp requirements (as listed in ORS 455.153);
 2. Appendix Chapter J of the International Building Code, as published by the International Code Council, regarding excavation, including the recognized standards for Appendix Chapter J listed in Chapter 35 of the International Building Code;
 3. Section 104.8 of the International Building Code, as published by the International Code Council, regarding liability;
 4. AN109.4.2 through AN109.4.3 of the State of Oregon Structural Specialty Code for alternate fire sprinkler system requirements.
- B. At least one copy of each of these specialty codes shall be kept by the building official and the Tigard Public Library, and shall be available for inspection upon request.
(Ord. 90-14 §1; Ord. 93-04 §1; Ord. 96-10 ; Ord. 99-04 ; Ord. 01-25 ; Ord. 04-10 ; Ord. 05-06)

§ 14.04.040. Administration.

- A. The city shall provide a program of building code administration, including plan review,

permit issuing and inspection for structural, electrical, mechanical and plumbing work. The program shall be administered by the building official, under the supervision of the community development director. The program shall operate pursuant to the state specialty codes listed in Section 14.04.030 and the remainder of this chapter.

- B. Administration and enforcement of Appendix Chapter J, Excavation, as adopted by Section 14.04.030.A.2, shall be by the building official and city engineer. Where the term "building official" is used in Appendix Chapter J, it shall mean either the building official or city engineer.
 - C. Fees for permits and other related services pursuant to the building code administration program shall be established by resolution of the city council.
- (Ord. 86-53 §2; Ord. 93-04 §2; Ord. 95-16 ; Ord. 96-10 ; Ord. 99-08 ; Ord. 04-10)

§ 14.04.065. Electrical Program Administration.

- A. Permit Required. Except as permitted by OAR 918-261-0000 through 0039, electrical work exempt from permit, subsection O of this section for minor installations, subsection P of this section for temporary electrical permits and subsection Q of this section for industrial plant electrical permits, no electrical work shall be performed unless a separate electrical permit for each separate building or structure has first been obtained from the building official.
- B. Expiration of Permits. Permits shall expire pursuant to OAR 918-309-0000(7).
- C. Validity of Permit.
 - 1. The issuance of a permit or approval of plans, specifications and computations shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of other ordinances of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid.
 - 2. The issuance of a permit based upon plans, specifications, computations and other data shall not prevent the building official from thereafter requiring the correction of errors in said plans, specifications, and other data or from preventing building operations being carried on thereunder when in violation of this code or of other ordinances of this jurisdiction.
- D. Revocation of Permits. The building official may, in writing, suspend or revoke a permit issued under the provisions of this chapter whenever the permit is issued in error or on the basis of incorrect information supplied or in violation of other ordinances or regulation of the jurisdiction.
- E. Plan Review Requirements. Electrical plan reviews shall be required. Plan review requirements and procedures shall be as stipulated in OAR 918-311-0000 through 0060.
- F. Expiration of Plan Review. Applications for which no permit is issued within 180 days following the date of application shall expire by limitation, and plans and other data submitted for review may thereafter be returned to the applicant or destroyed by the building official. The building official may extend the time for action by the applicant for a period not exceeding 180 days upon request by the applicant showing that circumstances

beyond the control of the applicant have prevented action from being taken. No application shall be extended more than once. In order to renew action on an application after expiration, the applicant shall resubmit plans and pay a new plan review fee.

- G. Permit Fees. Fees for electrical permits shall be established by resolution of the city council.
- H. Investigation Fees—Work Without a Permit.
 - 1. Investigation. Whenever any work for which a permit is required by this code has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.
 - 2. Fee. An investigation fee, in addition to the permit fee, shall be collected whether or not a permit is then or subsequently issued. The investigation fee shall be equal to the amount of the permit fee that would be required by this code if a permit were to be issued. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this code nor from any penalty prescribed by law.
- I. Fee Refunds.
 - 1. The building official may authorize the refunding of any fee paid hereunder which was erroneously paid or collected.
 - 2. The building official may authorize refunding of not more than 80% of the permit fee paid when no work has been done under a permit issued in accordance with this code.
 - 3. The building official may authorize refunding of not more than 80% of the plan review fee paid when an application for a permit for which a plan review fee has been paid is withdrawn or canceled before any plan review effort has been expended.
 - 4. The building official shall not authorize refunding of any fee paid except upon written application filed by the original permittee not later than 180 days after the date of fee payment.
- J. Right of Entry. When it is necessary to make an inspection to enforce the provisions of this section or when the building official has reasonable cause to believe that there exists in a building or upon a premises a condition which is contrary to or in violation of this section which makes the building or premises unsafe, dangerous or hazardous, the building official may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this section provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the building official shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the building official shall have recourse to the remedies provided by law to secure entry.
- K. Corrections and Stop Orders. When any work is being done contrary to the provisions of this section, the building official may order the work corrected or stopped by notice in writing served on any persons engaged in the doing or causing such work to be done, and such persons shall forthwith make the necessary corrections or stop work until authorized by the building official to proceed with the work.

- L. Authority to Disconnect Utilities in Emergencies. The building official or the building official's authorized representative shall have the authority to disconnect electrical service to a building, structure, premises or equipment regulated by this section in case of emergency where necessary to eliminate an immediate hazard to life or property. The building official shall, whenever possible, notify the serving utility, the owner and occupant of the building, structure or premises of the decision to disconnect prior to taking such action, and shall notify such serving utility, owner and occupant of the building, structure or premises in writing of such disconnection immediately thereafter.
- M. Authority to Condemn Equipment.
1. When the building official ascertains that any equipment, or portion thereof, regulated by this section has become hazardous to life, health or property, the building official shall order in writing that the equipment either be removed or restored to a safe or sanitary condition, as appropriate. The written notice shall contain a fixed time limit for compliance with such order. Persons shall not use or maintain defective equipment after receiving a notice.
 2. When equipment or an installation is to be disconnected, written notice of the disconnection and causes therefor shall be given within 24 hours to the serving utility, the owner and occupant of the building, structure or premises. When any equipment is maintained in violation of this section, and in violation of a notice issued pursuant to the provisions of this section, the building official shall institute an appropriate action to prevent, restrain, correct or abate the violation.
- N. Connection after Order to Disconnect. Persons shall not make connections from an electrical service nor supply electrical power to any equipment regulated by this section which has been disconnected or ordered to be disconnected by the building official or the use of which has been ordered to be discontinued by the building official until the proper permits have been obtained, inspections approved, and the building official authorizes the reconnection and use of such equipment.
- O. Minor Installation Labels. Rules for the use, issuance, and inspection of minor installation labels shall be as stipulated in OAR 918-050-0500 through 0520.
- P. Temporary Electrical Permits. Rules for the use of temporary electrical permits shall be as stipulated in OAR 918-309-0080.
- Q. Industrial Plant Electrical Permits and Inspection. Rules for the use of industrial plant electrical permits and inspections shall be as stipulated in OAR 918-309-0100.

(Ord. 95-16 ; Ord. 01-25 ; Ord. 04-10)

§ 14.04.070. Occupancy Restriction Recordation.

An applicant for a building permit for new construction, as a condition for the issuance of the permit, may be required to execute, notarize and deliver to the city a recordable occupancy restriction in the form of Exhibit A-1, attached to Ordinance 86-53, codified in this chapter. This requirement shall be at the discretion of the building official and the community development director. Upon receipt of the occupancy restriction, the building official shall record it in the deed records of Washington County. The recording fees shall be charged to the applicant. When the conditions in the occupancy restriction have been satisfied, the restriction shall be released and the occupancy certificate shall be issued.

(Ord. 86-53 §2)

§ 14.04.090. Violation—Penalty—Remedies.

- A. No person shall erect, construct, enlarge, alter, repair, move, improve, remove, convert, demolish, equip, occupy or maintain a building or structure in the city, or cause the same to be done contrary to or in violation of this chapter.
- B. No person shall install, alter, replace, improve, convert, equip or maintain any mechanical equipment or system in the city, or cause the same to be done contrary to or in violation to this chapter.
- C. No person shall install, alter, replace, improve, convert, equip or maintain any plumbing or drainage piping work or any fixture or water heating or treating equipment in the city, or cause the same to be done contrary to or in violation of this chapter.
- D. No person shall install, alter, replace, improve, convert, equip or maintain any electrical equipment or system in the city, or cause the same to be done contrary to or in violation of this chapter.
- E. Violation of a provision of this chapter shall be subject to an administrative civil penalty of not more than \$5,000 for each offense or, in the case of a continuing offense, not more than \$1,000.00 for each day of the offense and shall be processed in accordance with the procedures set forth in Section 14.04.095.
- F. Each day that a violation of a provision of this chapter exists constitutes a separate violation.
- G. Notwithstanding the other remedies in this chapter, if the building official determines that any building under construction, mechanical work, electrical work, or plumbing work on any building or any structure poses an immediate threat to the public health, safety or welfare, he or she may order the work halted and the building or structure vacated pending further action by the city and its legal counsel.
- H. The penalties and remedies provided in this section are not exclusive and are in addition to other penalties and remedies available under city ordinance or state statute, except that violations of this chapter shall not be charged as civil infractions and prosecuted in Tigard Municipal Court.

(Ord. 90-08 §4; Ord. 95-16 ; Ord. 09-16 §1)

§ 14.04.095. Building Official—Authority to Impose Administrative Civil Penalty.

- A. In addition to, and not in lieu of, any other enforcement mechanism authorized by this code, upon a determination by the building official that a person has violated a provision of this chapter or a rule adopted thereunder, the building official may impose upon the violator and/or any other responsible person an administrative civil penalty as provided by subsections A through L of this section. For purposes of this subsection, a responsible person includes the violator, and if the violator is not the owner of the building or property at which the violation occurs, may include the owner as well.
- B. Prior to imposing an administrative civil penalty under this section, the building official shall pursue reasonable attempts to secure voluntary correction, failing which the building

official may issue a notice of civil violation to one or more of the responsible persons to correct the violation. Except where the building official determines that the violation poses an immediate threat to health, safety, environment, or public welfare, the time for correction shall be not less than five calendar days.

- C. Following the date or time by which the correction must be completed as required by an order to correct a violation, the building official shall determine whether such correction has been completed. If the required correction has not been completed by the date or time specified in the order, the building official may issue a notice of civil violation to each person to whom an order to correct was issued.
- D. Notwithstanding subsection B of this section, the building official may impose a civil penalty without having issued an order to correct violation or made attempts to secure voluntary correction where the building official determines that the violation was knowing or intentional or a repeat of a similar violation.
- E. In imposing a penalty authorized by this section, the building official shall consider:
 - 1. The person's past history in taking all feasible steps or procedures necessary or appropriate to correct the violation;
 - 2. Any prior violations of statutes, rules, orders, and permits;
 - 3. The gravity and magnitude of the violation;
 - 4. Whether the violation was repeated or continuous;
 - 5. Whether the cause of the violation was an unavoidable accident, negligence, or an intentional act;
 - 6. The violator's cooperativeness and efforts to correct the violation; and
 - 7. Any relevant rule of the building official.
- F. The notice of civil penalty shall either be served by personal service or shall be sent by registered or certified mail and by first class mail. Any such notice served by mail shall be deemed received for purposes of any time computations hereunder three days after the date mailed if to an address within this state, and seven days after the date mailed if to an address outside this state. A notice of civil penalty shall include:
 - 1. A description of the alleged violation, including any relevant code provision numbers, ordinance numbers or other identifying references;
 - 2. A statement that the city intends to assess a civil penalty for the violation and states the amount of the civil penalty;
 - 3. A statement that the party may challenge the assessment of a civil penalty; and
 - 4. A description of the means and the deadline for informing the city that the party is challenging the assessment of the civil penalty.
- G. Any person who is issued a notice of civil penalty may appeal the penalty to the city manager or city manager's designee. The city manager's designee shall not be the building official or building inspector. The provisions of Section 14.04.098 shall govern any

requested hearing, except that the burden of proof shall be on the building official.

- H. A civil penalty imposed hereunder shall become final upon expiration of the time for filing an appeal, unless the responsible person appeals the penalty to the city manager or city manager's designee pursuant to, and within the time limits established by, Section 14.04.098. If the responsible person appeals the civil penalty to the city manager or city manager's designee, the penalty shall become final, if at all, upon issuance of the city manager or city manager's designee's decision affirming the imposition of the administrative civil penalty.
- I. Each day the violator fails to remedy the code violation shall constitute a separate violation.
- J. Failure to pay a penalty imposed hereunder within 10 days after the penalty becomes final as provided in subsection H of this section shall constitute a violation of this code. Each day the penalty is not paid shall constitute a separate violation. The building official also is authorized to collect the penalty by any administrative or judicial action or proceeding authorized by subsection K of this section, other provisions of this code, or state statutes.

The civil penalty authorized by this section shall be in addition to:

- 1. Assessments or fees for any costs incurred by the city in remediation, cleanup, or abatement; and
- 2. Any other actions authorized by law.
- K. If an administrative civil penalty is imposed on a responsible person because of a violation of any provision of this code resulting from prohibited use or activity on real property, and the penalty remains unpaid 30 days after such penalty become final, the building official shall assess the property the full amount of the unpaid fine and shall enter such an assessment as a lien in the docket of city liens. At the time such an assessment is made, the building official shall notify the responsible person that the penalty has been assessed against the real property upon which the violation occurred and has been entered in the docket of city liens. The lien shall be enforced in the same manner as liens established by judgment of a hearings officer pursuant to Section 1.16.710 of this code, except that the building official shall be substituted for the hearings officer and a civil penalty shall be substituted for a judgment. The interest shall commence from the date of entry of the lien in the lien docket.
- L. In addition to enforcement mechanisms authorized elsewhere in this code, failure to pay an administrative civil penalty imposed pursuant to subsection A of this section shall be grounds for withholding issuance of requested permits or licenses, issuance of a stop work order, if applicable, or revocation or suspension of any issued permits or certificates of occupancy.

(Ord. 09-16 §2; Ord. 12-01 §2)

§ 14.04.098. Appeal Procedures.

- A. A person aggrieved by an administrative action of the building official taken pursuant to a section of this code authorizing an appeal under this section may, within 20 days after the date of notice of the action, appeal in writing to the building official. The appeal shall be accompanied by an appeal fee as established by the city and shall state:

1. The name and address of the appellant;
2. The nature of the determination being appealed;
3. The reason the determination is incorrect; and
4. What the correct determination of the appeal should be.

An appellant who fails to file such a statement within the time permitted waives the objections, and the appeal shall be dismissed. Except as provided in subsection E of this section, the appeal fee is not refundable.

- B. If a notice of revocation of a license or permit is the subject of the appeal, the revocation does not take effect until final determination of the appeal. Notwithstanding this paragraph, an emergency suspension shall take effect upon issuance of, or such other time stated in, the notice of suspension.
- C. Unless the appellant and the city agree to a longer period, an appeal shall be heard by the city manager or city manager's designee within 30 days of the receipt of the notice of intent to appeal. At least 10 days prior to the hearing, the city shall mail notice of the time and location thereof to the appellant.
- D. The city manager or city manager's designee shall hear and determine the appeal on the basis of the appellant's written statement and any additional evidence the city manager or city manager's designee deems appropriate. At the hearing, the appellant may present testimony and oral argument personally or by counsel. The rules of evidence as used by courts of law do not apply.
- E. The city manager or city manager's designee shall issue a written decision within 10 days of the hearing date. The decision of the city manager or city manager's designee after the hearing is final and may include a determination that the appeal fee be refunded to the applicant upon a finding by the city manager or city manager's designee that the appeal was not frivolous.

(Ord. 09-16 §3)

ARTICLE 14.16
PROPERTY MAINTENANCE REGULATIONS

Part 1
GENERAL

§ 14.16.010. Chapter Title.

This chapter shall be known as "Property Maintenance Regulations," and is referred to herein as "this chapter."

(Ord. 99-02)

§ 14.16.020. Purpose.

A. The purpose of this chapter is to protect the health, safety and welfare of Tigard citizens, to prevent deterioration of existing housing, and to contribute to vital neighborhoods by:

1. Establishing and enforcing minimum standards for residential structures regarding basic equipment, facilities, sanitation, fire safety, and maintenance.
2. Regulating and abating dangerous and derelict buildings.

(Ord. 99-02)

§ 14.16.030. Scope, Conflict with State Law.

The provisions of this chapter shall apply to all property in the City except as otherwise excluded by law; however, the provisions of this chapter do not apply to Group "I" occupancies as classified by the 1998 Oregon Structural Specialty Code. In the event that a provision of this chapter conflicts with a licensing requirement of the Oregon State Department of Human Resources, the state licensing requirements shall be followed. In areas where the Oregon State Department of Human Resources does not regulate through its licensing process, the provisions of this chapter shall apply.

(Ord. 99-02)

§ 14.16.040. Application of Titles 14 and 18.

Any alterations to buildings, or changes of their use, which may be a result of the enforcement of this chapter shall be done in accordance with applicable Sections of Title 14 (Buildings and Construction) and Title 18 (Zoning) of the Code of the City of Tigard.

(Ord. 99-02)

§ 14.16.050. Use of Summary Headings.

This chapter makes use of summary headings (in bold face type) on chapters, sections, and subsections to assist the reader in navigating the document. In the event of a conflict in meaning between the bold heading and the following plain text, the meaning of the plain text shall apply.

(Ord. 99-02)

§ 14.16.060. Definitions, Generally.

For the purpose of this chapter, certain abbreviations, terms, phrases, words and their derivatives shall be construed as specified in this chapter. Words used in the singular include the plural and the plural the singular. Words used in the masculine gender include the feminine and the feminine the masculine. "And" indicates that all connected items or provisions apply. "Or" indicates that the connected items or provisions may apply singly or in combination. Terms,

words, phrases and their derivatives used, but not specifically defined in this chapter, either shall have the meanings defined in Titles 14 or 18, or if not defined, shall have their commonly accepted meanings. If a conflict exists between a definition in Title 14 and 18, the definitions in this chapter shall apply to actions taken pursuant to this chapter.

(Ord. 99-02)

§ 14.16.070. Definitions.

A. The definition of words with specific meaning in this chapter are as follows:

Abatement of a nuisance. The act of removing, repairing, or taking other steps as may be necessary in order to remove a nuisance.

Accessory Structure. Any structure not intended for human occupancy which is located on residential property. Accessory structures may be attached to or detached from the residential structure. Examples of accessory structures include: garages, carports, sheds, and other non-dwelling buildings; decks, awnings, heat pumps, fences, trellises, flag poles, tanks, towers, exterior stairs and walkways, and other exterior structures on the property.

Apartment House. See Dwelling Classifications.

Approved. Meets the standards set forth by applicable provisions of the Tigard City Code including any applicable regulations for electric, plumbing, building, or other sets of standards included by reference in this chapter.

Basement. The usable portion of a building which is below the main entrance story and is partly or completely below grade.

Boarded. Secured against entry by apparatus which is visible off the premises and is not both lawful and customary to install on occupied structures.

Building. Any structure used or intended to be used for supporting or sheltering any use or occupancy.

Building, Existing. A building constructed and legally occupied prior to the adoption of this chapter, and one for which a building permit has been lawfully issued and has not been revoked or lapsed due to inactivity.

Building Official. The Building Official, or authorized representative, charged with the enforcement and administration of this chapter.

Ceiling Height. The clear distance between the floor and the ceiling directly above it.

Court. A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls of a building.

Dangerous Building. See Dangerous Structure.

Dangerous Structure. Any structure which has any of the conditions or defects described in Section 14.16.380.

Derelict Building. Any structure which has any of the conditions or defects described in Section 14.16.370(A)

Duplex. See Dwelling Classifications, "Two-Family Dwelling."

Dwelling. Any structure containing dwelling units, including all dwelling classifications covered by this chapter.

Dwelling Classifications. Types of dwellings covered by this chapter include:

- a. Accessory Dwelling Unit. An additional dwelling unit within a detached single-family dwelling, subject to the provisions of Title 18.
- b. Single-Family Dwelling. A structure containing one dwelling unit, including adult foster care homes.
- c. Two-Family Dwelling. A structure containing two dwelling units, also known as a "duplex."
- d. Apartment House. Any building or portion of a building containing three or more dwelling units, which is designed, built, rented, leased, let, or hired out to be occupied for residential living purposes.
- e. Hotel. Any structure containing dwelling units that are intended, designed, or used for renting or hiring out for sleeping purposes by residents on a daily, weekly, or monthly basis.
- f. Motel. For purposes of this chapter, a motel shall be defined the same as a hotel.
- g. Single-Room Occupancy Housing Unit. A one-room dwelling unit in a hotel providing sleeping, cooking, and living facilities for one or two persons in which some or all sanitary or cooking facilities (toilet, lavatory, bathtub or shower, kitchen sink, or cooking equipment) may be shared with other dwelling units.
- h. Social Care Facilities. Any building or portion of a building, which is designed, built, rented, leased, let, hired out or otherwise occupied for group residential living purposes, which is not an apartment house, single-family dwelling or two-family dwelling. Such facilities include but are not limited to, retirement facilities, assisted living facilities, residential care facilities, half-way houses, youth shelters, homeless shelters and other group living residential facilities.
- i. Manufactured Dwelling. The term "manufactured dwelling" includes the following types of single-family dwellings:
 - (1) Residential Trailer. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for, or is intended to be used for, residential purposes, and that was constructed before January 1, 1962.
 - (2) Mobile Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for, or is intended to be used for, residential purposes, and that was constructed between January 1, 1962, and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.
 - (3) Manufactured Home. A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for, or is intended to be used for, residential purposes, and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations.

Manufactured Dwelling does not include any unit identified as a recreational vehicle by the manufacturer.

Dwelling Unit. One or more habitable rooms that are occupied by, or in the case of an unoccupied structure or portion of a structure, are designed or intended to be occupied by, one person or by a family or group living together as a single housekeeping unit that includes facilities for living and sleeping and, unless exempted by this chapter in Sections 14.16.230 and 14.16.240, also includes facilities for cooking, eating, and sanitation.

Exit. (Means of Egress.) A continuous, unobstructed means of escape to a public way, as defined in the building code in effect in the City.

Exterior Property Area. The sections of residential property which are outside the exterior walls and roof of the dwelling.

Extermination. The elimination of insects, rodents, vermin or other pests at or about the affected building.

Floor Area. The area of clear floor space in a room exclusive of fixed or built-in cabinets or appliances.

Habitable Room (Space). Habitable room or space is a structure for living, sleeping, eating or cooking. Bathrooms, toilet compartments, closets, halls, storage or utility space, and similar areas are not considered habitable space.

Hazardous Materials. Materials defined by the current fire code adopted by the Tualatin Valley Fire and Rescue District as hazardous.

Hotel. See Dwelling Classifications.

Human Habitation. The use of any residential structure or portion of the structure in which any person remains for continuous periods of two hours or more or for periods which will amount to four or more hours out of 24 hours in one day.

Immediate Danger. Any condition posing a direct immediate threat to human life, health, or safety.

Infestation. The presence within or around a dwelling of insects, rodents, vermin or other pests to a degree that is harmful to the dwelling or its occupants.

Inspection. The examination of a property by a person authorized by law for the purpose of evaluating its condition as provided by this chapter.

Inspector. An authorized representative of the Building Official whose primary function is the inspection of properties and the enforcement of this chapter.

Interested Party. Any person or entity that possesses any legal or equitable interest of record in a property including but not limited to the holder of any lien or encumbrance of record on the property.

Kitchen. A room used or designed to be used for the preparation of food.

Lavatory. A fixed wash basin connected to hot and cold running water and the building drain and used primarily for personal hygiene.

Maintenance. The work of keeping property in proper condition to perpetuate its use.

Manufactured Dwelling. See Dwelling Classifications.

Motel. See Dwelling Classifications.

Occupancy. The lawful purpose for which a building or part of a building is used or intended to be used.

Occupant. Any person (including an owner or operator) using a building, or any part of a building, for its lawful, intended use.

Occupied. Used for an occupancy.

Operator. Any person who has charge, care or control of a building or part of a building in which dwelling units are let or offered for occupancy.

Outdoor area. All parts of property that are exposed to the weather including the exterior of structures built for human occupancy. This includes, but is not limited to; open and accessible porches, carports, garages, and decks; accessory structures, and any outdoor storage structure.

Owner. The person whose name and address is listed as the owner of the property by the County Tax Assessor in the County Assessment and Taxation records.

Plumbing or Plumbing Fixtures. Plumbing or plumbing fixtures mean any water heating facilities, water pipes, vent pipes, garbage or disposal units, waste lavatories, bathtubs, shower baths, installed clothes-washing machines or other similar equipment, catch basins, drains, vents, or other similarly supplied fixtures, together with all connection to water, gas, sewer, or vent lines.

Property. Real property and all improvements or structures on real property, from property line to property line.

Public right of way. Any sidewalk, planting strip, alley, street, or pathway, improved or unimproved, that is dedicated to public use.

Repair. The reconstruction or renewal of any part of an existing structure for the purpose of its maintenance.

Resident. Any person (including owner or operator) hiring or occupying a room or dwelling unit for living or sleeping purposes.

Residential Property. Real property and all improvements or structures on real property used or in the case of unoccupied property intended to be used for residential purposes including any residential structure, dwelling, or dwelling unit as defined in this chapter and any mixed-use structures which have one or more dwelling units. Hotels that are used exclusively for transient occupancy, as defined in this chapter, are excluded from this definition of residential property.

Residential Rental Property. Any property within the City on which exist one or more dwelling units which are not occupied as the principal residence of the owner.

Residential Structure. Any building or other improvement or structure containing one or more dwelling units as well as any accessory structure. This includes any dwelling as defined in this chapter.

Shall. As used in this chapter, is mandatory.

Single-Family Dwelling. See Dwelling Classifications.

Single-Room Occupancy Housing Unit. See Dwelling Classifications.

Sink. A fixed basin connected to hot and cold running water and a drainage system and primarily used for the preparation of food and the washing of cooking and eating utensils.

Sleeping Room. Any room designed, built, or intended to be used as a bedroom as well as any other room used for sleeping purposes.

Smoke Alarm or Detector. An approved detection device for products of combustion other than heat that is either a single station device or intended for use in conjunction with a central control panel and which plainly identifies the testing agency that inspected or approved the device.

Structure. That which is built or constructed, an edifice or building of any kind, or any piece or work artificially built up or composed of parts joined together in some definite manner, including but not limited to buildings.

Substandard. In violation of any of the minimum requirements as set out in this chapter.

Supplied. Installed, furnished or provided by the owner or operator.

Swimming Pool. An artificial basin, chamber, or tank constructed of impervious material, having a depth of 18 inches or more, and used or intended to be used for swimming, diving, or recreational bathing.

Toilet. A flushable plumbing fixture connected to running water and a drainage system and used for the disposal of human waste.

Toilet Compartment. A room containing only a toilet or only a toilet and lavatory.

Transient Occupancy. Occupancy of a dwelling unit in a hotel where the following conditions are met:

- a. Occupancy is charged on a daily basis and is not collected more than six days in advance;
- b. The lodging operator provides maid and linen service daily or every two days as part of the regularly charged cost of occupancy;
- c. The period of occupancy does not exceed 30 days; and
- d. If the occupancy exceeds five days, the resident has a business address or a residence other than at the hotel.

Two-Family Dwelling. See Dwelling Classifications.

Unoccupied. Not used for occupancy.

Unsecured. Any structure in which doors, windows, or apertures are open or broken so as to allow access by unauthorized persons.

Yard. An open, unoccupied space, other than a court, unobstructed from the ground to the sky, and located between a structure and the property line of the lot on which the structure is situated.

(Ord. 99-02)

**Part 2
STANDARDS**

§ 14.16.080. Housing Maintenance Requirements, Generally.

No owner shall maintain or permit to be maintained any residential property which does not comply with the requirements of this chapter. All residential property shall be maintained to the building code requirements in effect at the time of construction, alteration, or repair and shall meet the minimum requirements described in this chapter.

(Ord. 99-02)

§ 14.16.090. Display of Address Number.

Address numbers posted shall be the same as the number listed on the County Assessment and Taxation Records for the property. All dwellings shall have address numbers posted in a conspicuous place so they may be read from the listed street or public way. Units within apartment houses shall be clearly numbered or lettered.

(Ord. 99-02)

§ 14.16.100. Accessory Structures.

All accessory structures on residential property shall be maintained structurally safe and sound and in good repair. Exterior steps and walkways shall be maintained free of unsafe obstructions or hazardous conditions.

(Ord. 99-02)

§ 14.16.110. Roofs.

The roof shall be structurally sound, tight, and have no defects which might admit rain. Roof drainage shall be adequate to prevent rainwater from causing dampness in the walls or interior portion of the building and shall channel rainwater into approved receivers.

(Ord. 99-02)

§ 14.16.120. Chimneys.

Every masonry, metal, or other chimney shall remain adequately supported and free from obstructions and shall be maintained in a condition which ensures there will be no leakage or backup of noxious gases. Every chimney shall be reasonably plumb. Loose bricks or blocks shall be rebonded. Loose or missing mortar shall be replaced. Unused openings into the interior of the structure must be permanently sealed using approved materials.

(Ord. 99-02)

§ 14.16.130. Foundations and Structural Members.

- A. Foundation elements shall adequately support the building and shall be free of rot, crumbling elements, or similar deterioration.
- B. The supporting structural members in every dwelling shall be maintained structurally sound, showing no evidence of deterioration or decay which would substantially impair their ability to carry imposed loads.

(Ord. 99-02)

§ 14.16.140. Exterior Walls and Exposed Surfaces.

- A. Every exterior wall and weather-exposed exterior surface or attachment shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions which might admit rain or dampness to the interior portions of the walls or the occupied spaces of the building.
 - B. All exterior wood surfaces shall be made substantially impervious to the adverse effects of weather by periodic application of an approved protective coating of weather-resistant preservative, and be maintained in good condition. Wood used in construction of permanent structures and located nearer than six inches to earth shall be treated wood or wood having a natural resistance to decay.
 - C. Exterior metal surfaces shall be protected from rust and corrosion.
 - D. Every section of exterior brick, stone, masonry, or other veneer shall be maintained structurally sound and be adequately supported and tied back to its supporting structure.
- (Ord. 99-02)

§ 14.16.150. Stairs and Porches.

Every stair, porch, and attachment to stairs or porches shall be so constructed as to be safe to use and capable of supporting the loads to which it is subjected and shall be kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers that evidence excessive wear and are broken, warped, or loose.

(Ord. 99-02)

§ 14.16.160. Handrails and Guardrails.

- A. Every handrail and guardrail shall be firmly fastened, and shall be maintained in good condition, capable of supporting the loads to which it is subjected, and meet the following requirements:
 - 1. Handrails and guardrails required by building codes at the time of construction shall be maintained or, if removed, shall be replaced.
 - 2. Where not otherwise required by original building codes, exterior stairs of more than three risers which are designed and intended to be used as part of the regular access to the dwelling unit shall have handrails. Interior stairs of more than three risers that connect between floors with habitable rooms shall have handrails. When required handrails are installed they shall have a minimum height of 30 inches and maximum height of 38 inches, measured vertically from the nosing of the treads. They shall be continuous the full length of the stairs and shall be returned or shall terminate in newel posts or safety terminals.
 - 3. Where not otherwise required by original building codes, porches, balconies or raised floor surfaces located more than 30 inches above the floor or grade below shall have guardrails at least 36 inches high. Open sides of stairs with a total rise of more than 30 inches above the floor or grade below shall have guardrails no less than 34 inches in height measured vertically from the nosing of the tread. When required guardrails are installed, they shall have intermediate rails or ornamental closures which will not allow passage of an object 4 inches or more in diameter.

(Ord. 99-02)

§ 14.16.170. Windows.

- A. Every habitable room shall have at least one window facing directly to an exterior yard or court or shall be provided with approved artificial light. Except where approved artificial light is provided, the minimum total glass area for each habitable room shall be 6.8 percent of the room's floor area, except for basement rooms where the minimum shall be 5 percent. These exceptions to the current code shall not apply where any occupancy has been changed or increased contrary to the provisions of this chapter.
- B. Every habitable room shall have at least one window that can be easily opened or another approved device to adequately ventilate the room. Except where another approved ventilation device is provided, the total openable window area in every habitable room shall be equal to at least one-fortieth of the area of the room. Windows required for secondary escape purposes in sleeping rooms must also meet the requirements outlined in Subsection 14.16.170(D).
- C. Every bathroom and toilet compartment shall comply with the light and ventilation requirements for habitable rooms as required by Subsections 14.16.170(A) and (B), except that no window shall be required in bathrooms or toilet compartments equipped with an approved ventilation system.
- D. Windows in sleeping rooms that are provided to meet emergency escape or rescue requirements described in Section 14.16.300(A) shall have a sill height of no more than 44 inches above the floor or above an approved, permanently installed step. The step must not exceed 12 inches in height and must extend the full width of the window. The top surface of the step must be a minimum of six feet from the ceiling above the step.
- E. Windows in sleeping rooms that are provided to meet emergency escape or rescue requirements described in Section 14.16.300(A) shall have a minimum net clear opening at least 20 inches wide, at least 22 inches high, and, if constructed after July 1, 1974, at least five square feet in area.
- F. Every window required for ventilation or emergency escape shall be capable of being easily opened and held open by window hardware. Any installed storm windows on windows required for emergency escape must be easily openable from the inside without the use of a key or special knowledge or effort.
- G. All windows within 10 feet of the exterior grade that open must be able to be securely latched from the inside as well as be openable from the inside without the use of a key or any special knowledge or effort. This same requirement shall apply to all openable windows that face other locations that are easily accessible from the outside, such as balconies or fire escapes, regardless of height from the exterior grade.
- H. Every window shall be substantially weather-tight, shall be kept in sound condition and repair for its intended use, and shall comply with the following:
 - 1. Every window sash shall be fully supplied with glass window panes or an approved substitute without open cracks and holes.
 - 2. Every window sash shall be in good condition and fit weather-tight within its frames.

3. Every window frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain as completely as possible and to substantially exclude wind from entering the dwelling.

(Ord. 99-02)

§ 14.16.180. Doors.

- A. Every dwelling or dwelling unit shall have at least one door leading to an exterior yard or court, or in the case of a two-family dwelling or apartment, to an exterior yard or court or to an approved exit. All such doors shall be openable from the inside without the use of a key or any special knowledge or effort. All screen doors and storm doors must be easily openable from the inside without the use of a key or special knowledge or effort.
- B. In hotels and apartment houses, exit doors in common corridors or other common passageways shall be openable from the inside with one hand in a single motion, such as pressing a bar or turning a knob, without the use of a key or any special knowledge or effort.
- C. Every door to the exterior of a dwelling unit shall be equipped with a lock designed to discourage unwanted entry and to permit opening from the inside without the use of a key or any special knowledge or effort.
- D. Every exterior door shall comply with the following:
 1. Every exterior door, door hinge, door lock, and strike plate shall be maintained in good condition.
 2. Every exterior door when closed, shall fit reasonably well within its frame and be weather-tight.
 3. Every door frame shall be constructed and maintained in relation to the adjacent wall construction so as to exclude rain as completely as possible, and to substantially exclude wind from entering the dwelling.
- E. Every interior door and door frame shall be maintained in a sound condition for its intended purpose with the door fitting within the door frame.

(Ord. 99-02)

§ 14.16.190. Interior Walls, Floors, and Ceilings.

- A. Every interior wall, floor, ceiling, and cabinet shall be constructed and maintained in a safe and structurally sound condition, free of large holes and serious cracks, loose plaster or wallpaper, flaking or scaling paint, to permit the interior wall, floor, ceiling and cabinet to be kept in a clean and sanitary condition.
- B. Every toilet compartment, bathroom, and kitchen floor surface shall be constructed and maintained to be substantially impervious to water and to permit the floor to be kept in a clean and sanitary condition.

(Ord. 99-02)

§ 14.16.200. Interior Dampness.

Every dwelling, including basements, and crawl spaces shall be maintained reasonably free

from dampness to prevent conditions conducive to decay, mold growth, or deterioration of the structure.

(Ord. 99-02)

§ 14.16.210. Insect and Rodent Harborage.

Every dwelling shall be kept free from insect and rodent infestation, and where insects and rodents are found, they shall be promptly exterminated. After extermination, proper precautions shall be taken to prevent reinfestation.

(Ord. 99-02)

§ 14.16.220. Cleanliness and Sanitation.

The interior of every dwelling shall be constructed in a safe and structurally sound condition to permit the interior to be maintained in a clean and sanitary condition. The interior of every dwelling shall be free from accumulation of rubbish or garbage which is affording a breeding ground for insects and rodents, producing dangerous or offensive gases, odors and bacteria, or other unsanitary conditions, or a fire hazard.

(Ord. 99-02)

§ 14.16.230. Bathroom Facilities.

- A. Except as otherwise noted in this Section, every dwelling unit shall contain within its walls in safe and sanitary working condition:
 1. A toilet located in a room that is separate from the habitable rooms and that allows privacy;
 2. A lavatory basin; and
 3. A bathtub or shower located in a room that allows privacy.
- B. In hotels, apartment houses and social care facilities where private toilets, lavatories, or baths are not provided, there shall be on each floor at least one toilet, one lavatory, and one bathtub or shower each provided at the rate of one for every twelve residents or fraction of twelve residents. Required toilets, bathtubs, and showers shall be in a room, or rooms, that allow privacy.
- C. When there are practical difficulties involved in carrying out the provisions of this section for hotels, apartment houses and social care facilities where private toilets, lavatories or baths are not provided, the Building Official may grant modifications for individual cases. The Building Official shall first find that a special and individual reason makes the requirements of this section impractical and that the modification is in conformance with the intent of this section and that such modification does not result in the provision of inadequate bathroom facilities in the dwelling.

(Ord. 99-02)

§ 14.16.240. Kitchen Facilities.

- A. Every dwelling unit shall contain a kitchen sink apart from the lavatory basin required under Section 14.16.230, with the exception of single-room occupancy housing units which shall comply with Subsection 14.16.350(B) and social care facilities complying with

Subsection 14.16.240(C).

- B. Except as otherwise provided for in Subsections 14.16.240(C) and 14.16.350(B) and (C), every dwelling unit shall have approved service connections for refrigeration and cooking appliances.
 - C. Social care facilities may be provided with a community kitchen with facilities for cooking, refrigeration, and washing utensils.
- (Ord. 99-02)

§ 14.16.250. Plumbing Facilities.

- A. Every plumbing fixture or device shall be properly connected to a public or an approved private water system and to a public or an approved private sewer system.
- B. All required sinks, lavatory basins, bathtubs and showers shall be supplied with both hot and cold running water. Every dwelling shall be supplied with water heating facilities adequate for each dwelling unit which are installed in an approved manner, properly maintained, and properly connected with hot water lines to all required sinks, lavatory basins, bathtubs and showers. Water heating facilities shall be capable of heating water enough to permit an adequate amount of water to be drawn at every required facility at a temperature of at least 120 degrees at any time needed.
- C. In every dwelling all plumbing or plumbing fixtures shall be:
 - 1. Properly installed, connected, and maintained in good working order;
 - 2. Kept free from obstructions, leaks, and defects;
 - 3. Capable of performing the function for which they are designed; and
 - 4. Installed and maintained so-as to prevent structural deterioration or health hazards.
- D. All plumbing repairs and installations shall be made in accordance with the provisions of the Plumbing Code adopted by the City.

(Ord. 99-02)

§ 14.16.260. Heating Equipment and Facilities.

- A. All heating equipment, including that used for cooking, water heating, dwelling heat, and clothes drying shall be:
 - 1. Properly installed, connected, and maintained in safe condition and good working order,
 - 2. Free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards; and
 - 3. Capable of performing the function for which they are designed.
- B. Every dwelling shall have a heating facility capable of maintaining a room temperature of 68 degrees Fahrenheit at a point 3 feet from the floor in all habitable rooms.
 - 1. Portable heating devices may not be used to meet the dwelling heat requirements of

this chapter.

2. No inverted or open flame fuel burning heater shall be permitted. All heating devices or appliances shall be of an approved type.

(Ord. 99-02)

§ 14.16.270. Electrical System, Outlets, and Lighting.

- A. Every dwelling shall be connected to an approved source of electric power. Every electric outlet and fixture shall be maintained and safely connected to an approved electrical system. The electrical system shall not constitute a hazard to the occupants of the building by reason of inadequate service, improper fusing, improper wiring or installation, deterioration or damage, or similar reasons.
- B. In addition to other electrical system components that may be used to meet cooking, refrigeration, and heating requirements listed elsewhere in this chapter, the following outlets and lighting fixtures are required:
 1. Every habitable room shall contain at least two operable electric outlets or one outlet and one operable electric light fixture.
 2. Every toilet compartment or bathroom shall contain at least one supplied and operable electric light fixture and one outlet. Every laundry, furnace room, and all similar nonhabitable spaces located in a dwelling shall have one supplied electric light fixture available at all times.
 3. Every public hallway, corridor, and stairway in apartment houses, hotels and social care facilities shall be adequately lighted at all times with an average intensity of illumination of at least one foot candle at principal points such as angles and intersections of corridors and passageways, stairways, landings of stairways, landings of stairs and exit doorways, and at least 1/2 foot candle at other points. Measurement of illumination shall be taken at points not more than 4 feet above the floor.

(Ord. 99-02)

§ 14.16.280. Sleeping Room Requirements.

- A. Every room used for sleeping purposes:
 1. Shall be a habitable room as defined in this chapter; and
 2. Shall have natural or approved artificial light, ventilation, and windows or other means for escape purposes as required by this chapter.

(Ord. 99-02)

§ 14.16.290. Overcrowding.

No dwelling unit shall be permitted to be overcrowded. A dwelling unit shall be considered overcrowded if there are more residents than one plus one additional resident for every 150 square feet of floor area of the habitable rooms in the dwelling unit.

(Ord. 99-02)

§ 14.16.300. Emergency Exits.

- A. Every sleeping room shall have at least one operable window or exterior door approved for emergency escape or rescue that is openable from the inside to a full clear opening without the use of special knowledge, effort, or separate tools. Windows used to meet this requirement shall meet the size and sill height requirements described in 14.16.170(D). All below grade windows used to meet this requirement shall have a window well the full width of the window, constructed of permanent materials with a 3 foot clearance measured perpendicular to the outside wall. The bottom of the well may not be more than 44 inches below grade.
- B. Required exit doors and other exits shall be free of encumbrances or obstructions that block access to the exit.
- C. All doorways, windows and any device used in connection with the means of escape shall be maintained in good working order and repair.
- D. In addition to other exit requirements, in hotels and apartment houses:
 - 1. All fire escapes shall be kept in good order and repair.
 - 2. Every fire escape or stairway, stair platform, corridor or passageway which may be one of the regular means of emergency exit from the building shall be kept free of encumbrances or obstructions of any kind.
 - 3. Where doors to stair enclosures are required by City code to be self-closing, the self closing device shall be maintained in good working order and it shall be unlawful to wedge or prop the doors open.
 - 4. Windows leading to fire escapes shall be secured against unwanted entry with approved devices which permit opening from the inside without the use of a key or any special knowledge, effort or tool.
 - 5. Where necessary to indicate the direction of egress, every apartment house and hotel shall have directional signs in place, visible throughout common passageways, that indicate the way to exit doors and fire escapes. Emergency exit doors and windows shall be clearly labeled for their intended use.

(Ord. 99-02)

§ 14.16.310. Smoke Alarms and Detectors.

Smoke alarms and detectors shall be required to be maintained as was required at the time of construction of the dwelling. Notwithstanding the provisions of the requirement at the time of construction, a single station smoke alarm or detector shall be located in all buildings where a room or area therein is designated for sleeping purposes either as a primary use or use on a casual basis. A single station smoke alarm or detector shall be installed in the immediate vicinity of the sleeping rooms and on each additional story of the dwelling, including basements and attics with habitable space. All alarms and detectors shall be approved, shall comply with all applicable laws, shall be installed in accordance with the manufacturer's instructions and shall be operable.

(Ord. 99-02)

§ 14.16.320. Hazardous Materials.

- A. When paint is applied to any surface of a residential structure, it shall be lead-free.

- B. Residential property shall be free of dangerous levels of hazardous materials, contamination by toxic chemicals, or other circumstances that would render the property unsafe.
- C. No residential property shall be used as a place for the storage and handling of highly combustible or explosive materials or any articles which may be dangerous or detrimental to life or health. No residential property shall be used for the storage or sale of paints, varnishes or oils used in the making of paints and varnishes, except as needed to maintain the dwelling.
- D. Residential property shall be kept free of friable asbestos.

(Ord. 99-02)

§ 14.16.330. Maintenance of Facilities and Equipment.

- A. In addition to other requirements for the maintenance of facilities and equipment described in this chapter:
 - 1. All required facilities in every dwelling shall be constructed and maintained to properly and safely perform their intended function.
 - 2. All non-required facilities or equipment present in a dwelling shall be maintained to prevent structural damage to the building or hazards of health, sanitation, or fire.

(Ord. 99-02)

§ 14.16.340. Swimming Pool Enclosures.

Each swimming pool not totally enclosed by a structure shall be enclosed by a substantial fence at least 4 feet in height and equipped with a self-closing and latching gate except where bordered by a wall of an adjacent structure at least 4 feet in height. No swimming pool shall be nearer than 3 feet from any lot line, and no enclosing fence or wall shall be constructed nearer than 3 feet to the outer walls of the swimming pool, but in no case shall the distance between the pool and the lot line or wall be closer than allowed by Title 18. The lot line shall be as defined in Title 18 of City code.

(Ord. 99-02)

§ 14.16.350. Special Standards for Single-Room Occupancy Housing Units.

- A. In addition to meeting requirements for residential structures defined elsewhere in this chapter, hotels containing single-room occupancy housing units shall comply with the following:
 - 1. Either a community kitchen with facilities for cooking, refrigeration, and washing utensils shall be provided on each floor, or each individual single-room occupancy housing unit shall have facilities for cooking, refrigeration and washing utensils. In addition, facilities for community garbage storage or disposal shall be provided on each floor.
 - 2. When there are practical difficulties involved in carrying out the provisions of this subsection where each individual single-room occupancy housing unit is not provided with facilities for cooking, refrigeration and washing utensils, the Building Official may grant modifications for individual cases. The Building Official shall first find

that a special and individual reason makes the requirements of this section impractical and that the modification is in conformance with the intent of this section and that such modification does not result in the provision of inadequate cooking, refrigeration and utensil washing facilities for the single-room occupancy housing units.

3. Where cooking units are provided in individual single-room occupancy housing units, they shall conform to the requirements set forth below.
 - a. All appliances shall be hard-wired and on separate circuits or have single dedicated connections;
 - b. All cooking appliances shall be fixed and permanent, except microwave ovens;
 - c. The Mechanical Specialty Code, as adopted by Chapter 14.04 shall be used for setting standards for cooking appliances. Cabinets over cooking surfaces shall be 30 inches above the cooking surface, except that this distance may be reduced to 24 inches when a heat shield with 1 inch airspace and extending at least 6 inches horizontally on either side of the cooking appliance is provided. Cooking appliances shall be located with at least a 6-inch clear space in all directions from the perimeter of the cooking element or burner;
 - d. All cooking appliances shall be installed so as to provide a minimum clear work space in front of the appliance of 24 inches.

(Ord. 99-02)

Part 3
DANGEROUS & DERELICT STRUCTURES

§ 14.16.360. Dangerous and Derelict Structures, Generally.

No property shall contain any dangerous or derelict structure as described in this chapter. All such buildings or structures shall be repaired or demolished.

(Ord. 99-02)

§ 14.16.370. Derelict Structures.

- A. A derelict structure is any unoccupied non-residential building, structure, or portion thereof that meets any of the following criteria or any residential building which is at least 50% unoccupied and meets any of the following criteria:
 1. Has been ordered vacated by the Building Official pursuant to Chapter 1.16 and Section 14.16.385, 14.16.390 and 14.16.400; or,
 2. Has been issued a notice of infraction by the Code Enforcement Officer pursuant to Section 1.16.120; or,
 3. Is unsecured; or,
 4. Is boarded unless the boarding is required by the Building Official; or,
 5. Has, while vacant, had a nuisance declared by the City on the property upon which it is located.
- B. Any property which has been declared by the Building Official to include a derelict structure shall be considered in violation of this chapter until:
 1. The structure has been lawfully occupied; or,
 2. The structure has been demolished and the lot cleared and graded after approval is issued by the City, with final inspection and approval by the Building Official, or,
 3. The owner has demonstrated to the satisfaction of the Building Official that the property is free of all conditions causing its status as a derelict structure.

(Ord. 99-02)

§ 14.16.380. Dangerous Structures.

- A. Any structure which has any or all of the following conditions or defects to the extent that life, health, property, or safety of the public or the structure's occupants are endangered, shall be deemed to be a dangerous structure, declared a nuisance, and such condition or defects shall be abated pursuant to Section 14.16.410 and Chapter 1.16 of the City Code.
- B. High loads. Whenever the stress in any materials, member, or portion of a structure, due to all dead and live loads, is more than 1-1/2 times the working stress or stresses allowed in Chapter 14.04 for new buildings of similar structure, purpose, or location.
- C. Weakened or unstable structural members or appendages.
 1. Whenever any portion of a structure has been damaged by fire, earthquake, wind,

flood, or by any other cause, to such an extent that the structural strength or stability is materially less than it was before such catastrophe and is less than the minimum requirements of Chapter 14.04 for new buildings of similar structure, purpose, or location; or

2. Whenever appendages including parapet walls, cornices, spires, towers, tanks, statuaries, or other appendages or structural members which are supported by, attached to, or part of a building, and which are in a deteriorated condition or otherwise unable to sustain the design loads which are specified in Chapter 14.04.
- D. Buckled or leaning walls, structural members. Whenever the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- E. Vulnerability to earthquakes, high winds.
 1. Whenever any portion of a structure is wrecked, warped, buckled, or has settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction; or
 2. Whenever any portion of a building, or any member, appurtenance, or ornamentation of the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one half of that specified in Chapter 14.04 for new buildings of similar structure, purpose, or location without exceeding the working stresses permitted in Chapter 14.04 for such buildings.
- F. Insufficient strength or fire resistance. Whenever any structure which, whether or not erected in accordance with all applicable laws and ordinances:
 1. Has in any non-supporting part, member, or portion, less than 50 percent of the strength or the fire-resisting qualities or characteristics required by law for a newly constructed building of like area, height, and occupancy in the same location; or
 2. Has in any supporting part, member, or portion less than 66 percent of the strength or the fire-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height, and occupancy in the same location.
- G. Risk of failure or collapse.
 1. Whenever any portion or member or appurtenance thereof is likely to fail, or to become disabled or dislodged, or to collapse and thereby injure persons or damage property; or
 2. Whenever the structure, or any portion thereof, is likely to partially or completely collapse as a result of any cause, including but not limited to:
 - a. Dilapidation, deterioration, or decay;
 - b. Faulty construction;
 - c. The removal, movement, or instability of any portion of the ground necessary for the purpose of supporting such structure; or

- d. The deterioration, decay, or inadequacy of its foundation.
- H. Excessive damage or deterioration. Whenever the structure exclusive of the foundation:
- 1. Shows 33 percent or more damage or deterioration of its supporting member or members;
 - 2. 50 percent damage or deterioration of its non-supporting members; or
 - 3. 50 percent damage or deterioration of its enclosing or outside wall coverings.
- I. Demolition remnants on site. Whenever any portion of a structure, including unfilled excavations, remains on a site for more than 30 days after the demolition or destruction of the structure;
- J. Fire hazard. Whenever any structure is a fire hazard as a result of any cause, including but not limited to: Dilapidated condition, deterioration, or damage; inadequate exits; lack of sufficient fire-resistive construction; or faulty electric wiring, gas connections, or heating apparatus.
- K. Other hazards to health, safety, or public welfare.
- 1. Whenever, for any reason, the structure, or any portion thereof, is manifestly unsafe for the purpose for which it is lawfully constructed or currently is being used; or
 - 2. Whenever a structure is structurally unsafe or is otherwise hazardous to human life, including but not limited to whenever a structure constitutes a hazard to health, safety, or public welfare by reason of inadequate maintenance, dilapidation, unsanitary conditions, obsolescence, fire hazard, disaster, damage, or abandonment.
- L. Public nuisance.
- 1. Whenever any structure is in such a condition as to constitute a public nuisance known to the common law or in equity jurisprudence; or
 - 2. Whenever the structure has been so damaged by fire, wind, earthquake or flood or any other cause, or has become so dilapidated or deteriorated as to become:
 - a. An attractive nuisance, or
 - b. A harbor for vagrants or criminals.
- M. Chronic dereliction. Whenever a derelict structure, as defined in this chapter, remains unoccupied for a period in excess of 6 months or period less than 6 months when the structure or portion thereof constitutes an attractive nuisance or hazard to the public.
- N. Violations of codes, laws. Whenever any structure has been constructed, exists, or is maintained in violation of any specific requirement or prohibition applicable to such structure provided by the building regulations of this City, as specified in Chapter 14.04 or any law or ordinance of this State or City relating to the condition, location, or structure or buildings.

(Ord. 99-02)

**Part 4
ENFORCEMENT**

§ 14.16.385. Notice of Status as Derelict or Dangerous Structure.

When the Building Official determines that a structure is a derelict or dangerous structure notice of infraction shall be given to the owner pursuant to City Code Chapter 1.16. Additional notice to other affected persons may be given at the discretion of the Building Official. In addition to the notice required by Chapter 1.16, the Building Official shall give the statement of actions required to cure or remedy the condition and, if necessary, the order to vacate described in §14.16.390 and 14.16.400.

(Ord. 99-02)

§ 14.16.390. Statement of Actions Required.

- A. Notice of the statement of action shall be given in conjunction with the notice of infraction pursuant to Chapter 1.16.
- B. The statement of the action required to cure or remedy a condition giving rise to classification of a structure as derelict or dangerous shall include the following:
 1. If the Building Official has determined that the building or structure must be repaired, the statement shall require that all required permits be secured and the work physically commenced within such time from the date of the statement and completed within such time as the Building Official shall determine is reasonable under all of the circumstances.
 2. If the Building Official has determined that the building or structure must be vacated, the statement shall order that the building or structure shall be vacated within a time certain from the date of the statement as determined by the Building Official to be reasonable.
 3. If the Building Official has determined that (a) the building or structure is vacant, (b) that building or structure is structurally sound and does not present a fire hazard, and (c) the building or structure has presented or is likely to present a danger to individuals who may enter the building or structure even though they are unauthorized to do so, the statement shall require that the building or structure be secured against unauthorized entry by means which may include but are not limited to the boarding up of doors and windows.
 4. If the Building Official has determined that the building or structure must be demolished, the statement shall order that the building be vacated within such time as the Building Official shall determine is reasonable from the date of the statement; that all required permits be secured from the date of the statement, and that the demolition be completed within such time as the Building Official shall determine is reasonable.
 5. Statements advising that if any required repair or demolition work (without vacation also being required) is not commenced within the time specified, the Building Official will order the building vacated and posted to prevent further occupancy until the work is completed, and may proceed to cause the work to be done and charge the costs thereof against the property or its owners.

(Ord. 99-02)

§ 14.16.400. Notice of Unsafe Occupancy.

- A. Posting Notice. In conjunction with an order to vacate, a notice shall be posted at or upon each exit of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY

It is a violation of Chapter 14.16 of the City Code to occupy this building or to remove or deface this notice.

Building Official
City of Tigard

- B. Compliance.

1. Upon an order to vacate and the posting of an unsafe building notice, no person shall remain in or enter any building which has been so posted, except that entry may be made to repair, demolish or remove such building under permit.
2. No person shall remove or deface any such notice after it is posted until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the building code ordinance, codified in Chapter 14.04 of this code.

(Ord. 99-02)

§ 14.16.410. Abatement of Dangerous Structures.

All structures or portions thereof which are determined after inspection by the Building Official to be dangerous as defined in this chapter are hereby declared to be public nuisances and shall be abated by repair, rehabilitation, demolition, or removal in accordance with the procedures specified herein. If the Building Official determines that a structure is dangerous, as defined by this chapter, the Building Official may commence proceedings to cause the repair, vacation or demolition of the structure.

(Ord. 99-02)

§ 14.16.420. Inspections Required, Right of Entry.

- A. Inspections. All buildings, structures, or other improvements regulated by this chapter and all construction work for which a permit is required shall be subject to inspection by the Building Official.
- B. Right of Entry. Whenever the Building Official has reasonable cause to suspect a violation of any provision of this chapter exists or when necessary to investigate an application for or revocation of any approval under any of the procedures described in this title, the Building Official may enter on any site or into any structure for the purpose of investigation, provided that no premises shall be entered without first obtaining the consent of the owner or person in control of the premises if other than the owner, or by obtaining a search warrant.
- C. Search Warrant. If consent cannot be obtained, the Building Official shall secure a search warrant from the City's Municipal Court before further attempts to gain entry, and shall

have recourse to every other remedy provided by law to secure entry.
(Ord. 99-02)

§ 14.16.430. Fee-Paid Inspections for Residential Structures.

Requested inspections that are not part of the City's code enforcement program will be made as soon as practical after payment to the Building Official of the fee specified by resolution of the City Council.

(Ord. 99-02)

§ 14.16.440. Occupancy of Residential Property after Notice of Violation.

- A. If a notice of violation of sections 14.16.080 through 14.16.350 or 14.16.360 through 14.16.380 has been issued, and if the affected dwelling unit(s) is or becomes vacant, it shall be unlawful to reoccupy or permit re-occupancy of the unit(s) for residential purposes until the necessary permits are obtained, corrections made, and permit inspection approvals given.
- B. Notwithstanding Subsection 14.16.440 (A), the Building Official may permit re-occupancy of the dwelling unit if in the Building Official's opinion, all fire and life safety hazards have been rectified.

(Ord. 99-02)

§ 14.16.450. Illegal Residential Occupancy.

When a property has an illegal residential occupancy, including but not limited to occupancy of tents, campers, motor homes, recreational vehicles, or other structures or spaces not intended for permanent residential use or occupancy or spaces constructed or converted without permit, the use shall be abated or the structure brought into compliance with the present regulations for a building of the same occupancy.

(Ord. 99-02)

§ 14.16.460. Interference with Repair, Demolition, or Abatement Prohibited.

- A. It is unlawful for any person to obstruct, impede, or interfere with any person lawfully engaged in:
 1. The work of repairing, vacating, warehousing, or demolishing any structure pursuant to the provisions of this chapter;
 2. The abatement of a nuisance pursuant to the provisions of this chapter; or Chapter 1.16.
 3. The performance of any necessary act preliminary to or incidental to such work as authorized by this chapter or directed pursuant to it.

(Ord. 99-02)

§ 14.16.470. Violations.

- A. A violation of this chapter shall constitute a Class 1 civil infraction, which shall be processed according to the procedures in the civil infractions ordinance, set out at Chapter 1.16 of this Code.

- B. Each violation of a separate provision of this chapter shall constitute a separate infraction, and each day that a violation of this chapter is committed or permitted to continue shall constitute a separate infraction.
- C. A finding of a violation of this chapter shall not relieve the responsible party of the duty to abate the violation. The penalties imposed by this section are in addition and not in lieu of any remedies available to the City.
- D. If a provision of this chapter is violated by a firm or corporation, the officer or officers, or person or persons responsible for the violation shall be subject to the penalties imposed by this chapter.

(Ord. 99-02)

CHAPTER 14.20 MOVING OF BUILDINGS

§ 14.20.010. Title.

This chapter shall be known as the "moving of buildings ordinance" and may also be referred to herein as "this chapter."

(Ord. 90-17 §1)

§ 14.20.020. Definitions.

For the purposes of this chapter, the following mean:

Building. "Building" means any structure used or intended for sheltering any use or occupancy.

Building Official. "Building Official" means the designee or designees appointed by the Director of Community Development who is responsible for the building inspections and enforcement of the building code.

City Engineer. "City Engineer" means the City Engineer or the City Engineer's designee responsible for enforcing this chapter.

Oversized Load. "Oversized load" means any building, structure or commodity which is to be moved along any city street upon a flatbed truck, trailer, dollies or similar vehicles, which has a loaded width exceeding eight feet and/or a loaded length exceeding fifty feet total, and/or a loaded height exceeding fourteen feet pursuant to ORS 818.080.

Street. "Street" means any highway, road, street, or alley as defined in ORS 487.005(1) and (8).

Structure. "Structure" means that which is built or constructed, an edifice or building of any kind, or piece of work artificially built up or composed of parts joined together in some definite manner.

(Ord. 90-17 §1; Ord. 01-18)

§ 14.20.030. Permit Required.

(a) No person shall move any building within or into the City, to be placed on a lot, without first applying for and obtaining a permit under this chapter.

(b) No person shall move a building across or along a public street or way without first obtaining a permit to move an oversize load as regulated in Chapter 10.50.

(Ord. 90-17 §1)

§ 14.20.040. Permit Application—Fee.

(a) Application for a permit to move a building on or onto a lot shall be made to the Building Official on forms provided by the Building Official and shall include the following information:

- (1) The name and address of a person who owns the building;
- (2) The name and address of a person engaged to move the building;
- (3) The location from which the building is proposed to be moved;

- (4) The proposed new site of the building and its zoning classification;
 - (5) The dimensions, type of construction, and approximate age of the building;
 - (6) The use or purpose for which the building was designed;
 - (7) The use or purpose to be made of the building at its new location;
 - (8) The proposed moving date and hours of moving;
 - (9) Any additional information the Building Official considers necessary for a fair determination of whether the permit should be issued.
- (b) In situations where the City's design review standards apply, the applicant shall also make application and submit all necessary information for design review approval.
 - (c) An application shall be signed by the owner of the building to be moved or by the person engaged to move the building.
 - (d) The permit shall not be issued until the applicant pays a permit fee to defray the costs of issuing the permit. The amount of the fee shall be set pursuant to the state building code fee schedule.
 - (e) All other applicable development fees and charges shall be paid prior to issuance of the permit.
- (Ord. 90-17 §1)

§ 14.20.050. Plans Required for Permit.

A minimum of two sets of plans shall be submitted with each application for a building permit. The plans shall be drawn to scale and shall indicate the location, nature and extent of the work proposed and show in detail that it will conform to the provisions of the building code and other relevant laws, ordinances and regulations.

(Ord. 90-17 §1)

§ 14.20.060. Protection of Public and Private Property and Utilities.

- (a) The issuance of a permit to move a building is not an approval to remove, alter, interfere, or endanger any public or private property or utility without first having obtained in writing, the permission of the property owner(s), utility or public entity to do so.
 - (b) The applicant shall have made arrangements to the satisfaction of the owner(s), utility or public entity for protecting the installations or property, paying for whatever damage the moving causes them, and for reimbursing the owner(s), utility or public entity for any costs of removal and reinstallation of the property that the move necessitates.
- (Ord. 90-17 §1)

§ 14.20.070. Performance Assurance.

- (a) Performance assurance shall be furnished to the City in the form of a bond executed by the applicant with a surety company authorized to do business in this state and approved as to form and amount by the Building Official, or a cash deposit with the City in an amount approved by the Building Official. The performance assurance shall guarantee that the

applicant shall, within three months after the building has been moved onto the property, have it placed and anchored on a permanent foundation system, and within six months of moving the building onto the property, have all construction on the building completed and ready for occupancy in accordance with building and zoning regulations.

- (b) Failure to comply with subsection (a) of this section will result in forfeiture of the bond or cash deposit, and the City will use the funds to complete whatever work is necessary to bring the building into conformance with applicable codes. Should there be insufficient funds to complete the work necessary, to bring the building into conformance with applicable codes, and the Building Official determines the building is a dangerous building as described in Chapter 14.16, the Building Official may choose to demolish the building to abate the violation.
- (c) The Building Official may extend the completion date up to an additional six months, where the applicant has requested an extension in writing, and the Building Official determines there is due cause for granting the request, and no hazard exists.
- (d) No building shall be moved on or onto a lot in the City for the purpose of storage of the building.

(Ord. 90-17 §1)

§ 14.20.080. Permit Issuance Conditions.

The Building Official shall issue the permit subject to any necessary conditions if:

- (1) The application complies with the requirements of this chapter;
- (2) The moving can be accomplished without damage to property, or in case of damage to the property, it is consented to by the owner of the property or is to be paid for to the owner's satisfaction;
- (3) The building at its new site, will conform to the requirements of the community development code;
- (4) All requirements of the building code ordinance (Chapter 14.04 of this code) have been complied with.

(Ord. 90-17 §1)

§ 14.20.090. Permit Revocation.

The Building Official may refuse to issue a permit or may revoke a permit issued under this chapter if:

- (1) The permittee violates or cannot meet a requirement of the permit or a section of this chapter; or
- (2) Grounds, such as a misstatement of fact exist for revocation, suspension or refusal to issue the permit.

(Ord. 90-17 §1)

§ 14.20.100. Liability.

The permit shall not constitute an authorization for damaging property. The permit shall not

constitute a defense against any liability the permittee incurs for personal injury or property damage caused by the moving.

(Ord. 90-17 §1)

§ 14.20.110. Cleanup.

A person moving a building under a permit authorized by this chapter shall promptly remove from the public streets and private property all litter produced by the moving.

(Ord. 90-17 §1)

§ 14.20.120. Violation—Penalty.

Violation of this chapter shall constitute a Class I civil infraction and shall be processed in accordance with the civil infractions ordinance, codified in Chapter 1.16 of this code.

(Ord. 90-17 §1)

BUILDINGS AND CONSTRUCTION

Title 15**STREETS AND SIDEWALKS**

Chapter 15.04 WORK IN RIGHT-OF-WAY		§ 15.06.100. Leased Capacity. § 15.06.110. Maintenance. § 15.06.120. Vacation. § 15.06.130. Rights-of-Way Fee. § 15.06.140. Records and Audits. § 15.06.150. Insurance and Indemnification. § 15.06.160. Compliance. § 15.06.170. Confidential/Proprietary Information. § 15.06.180. Penalties. § 15.06.190. Violations. § 15.06.200. Severability and Preemption. § 15.06.210. Application to Existing Agreements.
§ 15.04.010. Definitions. § 15.04.020. Jurisdiction. § 15.04.030. Permit Required. § 15.04.040. Standards of Approval. § 15.04.050. Review by City Engineer. § 15.04.060. Permit Issuance. § 15.04.070. Compliance with Permit. § 15.04.080. Notice of Construction. § 15.04.090. Construction in Right-of-Way. § 15.04.105. Coordination of Construction. § 15.04.110. As Built Drawings. § 15.04.120. Restoration of Rights-of-Way and City Property. § 15.04.135. Right-of-Way Preservation Policy. § 15.04.140. Financial Guarantees. § 15.04.150. Insurance. § 15.04.160. Inspection and Acceptance. § 15.04.170. Liability; Indemnification. § 15.04.180. Violation—Penalties.		Chapter 15.08 STREET VACATIONS
§ 15.08.010. Purpose. § 15.08.020. Scope—Statutory Procedures Applicable.		
Chapter 15.06 UTILITY SERVICES IN PUBLIC RIGHTS-OF-WAY		Chapter 15.10 DRIVEWAY APPROACHES AND CURB CUTS
§ 15.06.010. Short Title. § 15.06.020. Purpose and Intent. § 15.06.030. Jurisdiction. § 15.06.040. Regulatory Fees and Compensation Not a Tax. § 15.06.050. Definitions. § 15.06.060. Registration. § 15.06.070. Licenses. § 15.06.080. Construction and Restoration. § 15.06.090. Location of Facilities.		§ 15.10.010. Definitions. § 15.10.020. Driveway Approaches and Curb Cuts. § 15.10.030. Areas of Limited Street Improvements. § 15.10.040. Abandoned Driveway Approaches. § 15.10.050. Sufficient Parking Required. § 15.10.060. Penalties.

STREETS AND SIDEWALKS

Chapter 15.12 SIDEWALKS	Chapter 15.20 STREET MAINTENANCE FEE
§ 15.12.010. Maintenance and Repair of Public Sidewalks.	§ 15.20.010. Creation and Purpose. § 15.20.020. Definitions. § 15.20.030. Administrative Officers Designated.
Chapter 15.16 ENCROACHMENT PERMITS	§ 15.20.040. Street Maintenance Fees Allocated to the Street Maintenance Fee Fund. § 15.20.050. Determination of Street Maintenance Fee. § 15.20.060. Determination of Amount, Billing and Collection of Fee. § 15.20.070. Waiver of Fees in Case of Vacancy. § 15.20.080. Administrative Provisions and Appeals. § 15.20.090. Administrative Policies. § 15.20.100. Penalty. § 15.20.110. Severability.
§ 15.16.010. Encroachments Within Rights-of-Way and Public Property.	
§ 15.16.015. Definitions.	
§ 15.16.020. Exemptions.	
§ 15.16.030. Permit Issuance.	
§ 15.16.040. Appeals.	
§ 15.16.050. Standards and Conditions.	
§ 15.16.060. Recording of Permits.	
§ 15.16.070. Revocation of Permits.	
§ 15.16.080. Removal of Encroachment.	
§ 15.16.090. Liability.	
§ 15.16.100. Enforcement.	

CHAPTER 15.04 WORK IN RIGHT-OF-WAY

§ 15.04.010. Definitions.

"City Engineer" means the City Engineer for the City of Tigard or his or her designee.

"Emergency" means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.

"Person" means every natural person, firm, co-partnership, association, corporation or entity, or district, but does not include the City of Tigard.

"Right-of-way" includes City streets, roads, bridges, alleys, sidewalks, trails, paths, and all other public ways and areas managed by the City. "Right-of-way" also includes public utility easements (PUEs) to the extent that the easement allows use by the permittee planning to use or using the public utility easement. "Right-of-way" includes the subsurface under and airspace over these areas. "Right-of-way" does not include the airwaves for purposes of Commercial Mobile Radio Services, broadcast television, Direct Broadcast Satellite, and other wireless providers, or easements or other property interests owned by a single utility or entity.

"Right-of-way permit" means a permit issued by the City authorizing work in the right-of-way. A right-of-way permit may also be referred to as a public facility improvement (PFI) permit.

"Sidewalk" means an area specifically delineated and constructed for pedestrian use located behind a curb but within the rights-of-way or within an easement specifically established for that purpose.

"Street" or "alley" means every way or place open as a matter of right to the use of the public for vehicular or pedestrian traffic between right-of-way lines.

"Work" means any activity that alters or disturbs the right-of-way and includes, but is not limited to, construction and trenching.

(Ord. 74-14 §1; Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.020. Jurisdiction.

The requirements of this chapter shall apply to all rights-of-way under the jurisdiction of the City of Tigard, dedicated by plat or deed, created by user, or the use thereof controlled by the City pursuant to agreements with Washington County or the Oregon Department of Transportation.

(Ord. 06-11)

§ 15.04.030. Permit Required.

- A. It is unlawful for any person to perform any work in the right-of-way without first obtaining a right-of-way permit from the City. The City may also require a right-of-way permit for certain stormwater quality and detention facilities located on private property. Notwithstanding, for routine maintenance or repair that does not alter or disturb the right-of-way, such as replacement of a light fixture or trimming of trees, the city may elect to not require a right-of-way permit provided the city receives notice of the planned maintenance repair, along with emergency contact information, as soon as reasonably practical.
- B. The City will not issue a right-of-way permit to place or maintain a utility system in any portion of the right-of-way unless the applicant has first complied with the provisions of

Chapter 15.06 of the Code.

- C. The applicant must pay a fee in the amount established by resolution of the City Council.
(Ord. 74-14 §2; Ord. 99-31 ; Ord. 02-22 ; Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.040. Standards of Approval.

The City Engineer may approve the issuance of a right-of-way permit where compliance with the following standards is demonstrated or found to be not applicable. The City Engineer may attach any conditions to the issuance of the permit that are reasonably related to ensuring compliance with this section, other applicable city codes and ordinances, and protection of the public interest. The City Engineer may require drawings, plans, engineering calculations, and specifications sealed by a professional engineer currently licensed in the State of Oregon and in sufficient detail to demonstrate compliance.

- A. All work will be performed and any facilities will be constructed in accordance with all applicable codes, rules and regulations.
- B. The construction methods to be employed protects existing structures, fixtures, and facilities or proposes to temporarily or permanently remove or relocate them.
- C. Appropriate traffic control measures will be used to minimize disruption to motorized and non-motorized traffic and pedestrians, provide for the safety of the general public, and prevent injury or damage to any person, vehicle, or property.
- D. Standard street sections and standard construction details will be as specified in city's design and construction standards. No deviation from these standards will be allowed without written findings documenting the need and written approval of the deviation being granted by the City Engineer.
- E. A 24-hour emergency contact name and phone number must be provided.
(Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.050. Review by City Engineer.

The City Engineer will review the application to determine if it complies with the standards in this chapter. The City Engineer may approve, modify and approve, or deny the application for a right-of-way permit based on the standards in Section 15.04.040.

(Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.060. Permit Issuance.

Upon a determination that the application and supporting information complies with the requirements of this chapter, the City Engineer will issue a permit authorizing construction in the rights-of-way, subject to conditions that the City Engineer deems appropriate to ensure compliance with this chapter. In order to minimize disruption to transportation and to coordinate work to be performed in the right-of-way, the permit may specify a time period within which all work must be performed and require coordination of construction activities. The City Engineer may impose conditions regulating the location and appearance of facilities, subject to applicable laws and regulations.

(Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.070. Compliance with Permit.

All construction must be in accordance with the permit and approved plans and specifications. The permittee will provide the City Engineer access to the work site to inspect any work in the right-of-way. The permittee will provide, upon request, any information needed by the City Engineer to determine compliance with applicable requirements. All work that does not comply with the permit requirements must either be corrected or removed at the sole expense of the permittee. The City is authorized to issue stop work orders to assure compliance with this chapter.

(Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.080. Notice of Construction.

Except in an emergency, the permittee must notify the City Engineer not less than two working days prior to any excavation or construction in the right-of-way. The notice must state the anticipated location, project schedule, and general description of the proposed work.

(Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.090. Construction in Right-of-Way.

- A. The permittee must complete all construction within the right-of-way so as to minimize disruption of the right-of-way and utility service and without interfering with other public and private property within the rights-of-way. All construction work within rights-of-way, including restoration, must be completed within the time specified by the City Engineer. Upon issuance of a right-of-way permit, the permittee must commence work within 180 days, unless otherwise specified by the City Engineer, at which time the right-of-way permit expires and is voided.
- B. Upon completion of daily work, all work zone areas must be left in a safe condition with all trenches covered.
- C. Access must be maintained at all times in compliance with the Americans with Disabilities Act (ADA).

(Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.105. Coordination of Construction.

The permittee will make a good faith effort to coordinate construction schedules with those of the city and other users of the rights-of-way.

(Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.110. As Built Drawings.

A permittee must provide city with two complete sets of engineered plans in a form acceptable to the city showing the location of the facilities the permittee installed or constructed within the rights-of-way pursuant to the permit.

(Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.120. Restoration of Rights-of-Way and City Property.

- A. When a permittee does any work in or affecting any rights-of-way or city property, the permittee must, at its own expense, repair and restore the area in which the work was

performed to as good or better condition than before such work was undertaken.

- B. If weather or other conditions do not permit the complete restoration required by this section, the permittee will temporarily restore the affected rights-of-way or property at the permittee's sole expense. When the weather or other conditions no longer prevent such permanent restoration, the permittee will promptly complete permanent restoration of the site. Any corresponding modification to the construction schedule may be subject to approval by the city.
- C. If the permittee fails to restore rights-of-way or property to good order and condition, the city will give the permittee written notice and provide the permittee a reasonable period of time not exceeding 30 days to restore the rights-of-way or property. If, after notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city may cause such restoration to be made at the permittee's expense.

(Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.135. Right-of-Way Preservation Policy.

- A. Except as provided in subsection B of this section, after any street has been constructed, reconstructed, paved or improved by any person, the driving surface of the pavement may not thereafter be cut or opened for a period of four years.
 - 1. The City Engineer will make the final determination on what construction or improvement will result in a limitation set forth in subsection A of this section and will create, maintain, and make available to the public a list of the streets and street segments subject to the limitation. Only streets named on the list will be subject to the limitation set forth in subsection A.
 - 2. The four-year limitation period begins upon the city's final acceptance of the completed street or street improvements.
- B. The City Engineer may grant an exception to the prohibition set forth in subsection A of this section: (1) in an emergency, (2) when cutting or opening the street is required to locate existing facilities when tunneling, boring, or pushing under the street (e.g., "potholing"), (3) to provide or maintain utility services to a property when no other reasonably practicable alternative exists within the right-of-way or existing utility easement, or (4) when, in the sole discretion of the City Engineer, compelling circumstances warrant the cutting or opening of the street.
- C. In granting an exception, the City Engineer may impose conditions determined to be appropriate to completely restore the street and provide equivalent surface quality, durability and rideability. Conditions may include surface grinding, base and sub-base repairs, or similar work, and may include up to a full-width surface paving of the roadway.
- D. Notwithstanding the provisions of this section, in an emergency, any person cutting or opening a street, will, when reasonably feasible, seek verbal authorization from the City Engineer for an exception. Whether or not verbal authorization was given, the person must apply for a permit for such work as soon as reasonably practicable, but not more than 48 hours after commencing work. The person must ensure the right-of-way or city property is restored pursuant to Section 15.04.120 and complies with any conditions pursuant to this Section 15.04.135.

(Ord. 06-12 ; Ord. 18-26 §1)

§ 15.04.140. Financial Guarantees.

When the city, in its sole discretion, determines that a permittee's work or manner of performance warrants, the city may require the permittee provide a cash deposit, bond, or other financial guarantee in a form acceptable to the city in an amount equal to at least 125% of the estimated costs of construction in the rights-of-way. The financial guarantee must remain in force until the city accepts the work and the work is covered by a satisfactory financial guarantee or maintenance bond in the amount of 25% of the public improvements installed in the right-of-way for the maintenance period of two years from the date of acceptance by the city. The financial guarantee will guarantee timely completion, construction in compliance with applicable plans, permits, codes and standards, proper location, restoration of rights-of-way and other property, and timely payment and satisfaction of all claims, demands or liens for labor, material or services.

(Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.150. Insurance.

As a condition of permit issuance, when the city determines that the proposed work may subject the city to potential liability, the city may require the applicant to obtain general liability insurance and file a certificate of insurance with the city from an insurance company acceptable to the city. The policy will name the city, its officers, agents, and employees as additional insureds. The amount of the insurance policy will be determined by the city, but in no case will it be less than the limits of public body liability under the Oregon Tort Claims Act. The policy must also contain a provision that the city will be notified at least 10 days prior to any cancellation of such insurance. The permittee must maintain the insurance for the term of the permit issued. Failure to maintain the insurance results in automatic revocation of the permit.

(Ord. 74-14 §17; Ord. 02-22 ; Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.160. Inspection and Acceptance.

The permittee must notify the City Engineer or designee upon completion for inspection of the work to determine compliance with the requirements of this chapter, prior to final acceptance of the work. The permittee will not be relieved of obligations under any guarantee given pursuant to Section 15.04.140 until the work is in accordance with the terms of the permit and has been accepted by the city. Acceptance by the city does not relieve the permittee of its obligation to maintain, repair, or reconstruct the site of the excavation so as to maintain a condition acceptable to the City Engineer until the right-of-way is reconstructed, repaved, or resurfaced by the city.

(Ord. 74-14 §14; Ord. 02-22 ; Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.170. Liability; Indemnification.

The permittee is responsible and liable for all accidents, environmental clean-up, damages or injuries to any person or property resulting from work performed by or under the direction of the permittee, permittee's agents, or employees in the right-of-way. The permittee will indemnify, defend, and hold harmless the city, its elected officials, and all officers, employees or agents against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which they or any of them may sustain by reasons of the acts, conduct or operation of the permittee, the permittee's agents, or employees in connection with their work in

the right-of-way.

(Ord. 74-14 §16; Ord. 06-11 ; Ord. 18-26 §1)

§ 15.04.180. Violation—Penalties.

Failure to comply with a provision of this chapter is a Class 1 Civil Infraction.

(Ord. 74-14 §21; Ord. 02-22 ; Ord. 06-11 ; Ord. 18-26 §1)

**CHAPTER 15.06
UTILITY SERVICES IN PUBLIC RIGHTS-OF-WAY**

§ 15.06.010. Short Title.

This chapter will be known and referred to as the Utility Service in Public Rights-of-Way Ordinance.

(Ord. 18-24 §1)

§ 15.06.020. Purpose and Intent.

The purpose and intent of this chapter is to:

- A. Permit and manage reasonable access to the rights-of-way of the city for utility purposes and conserve the limited physical capacity of those rights-of-way held in trust by the city consistent with applicable state and federal law;
- B. Assure that the city's current and ongoing costs of granting and regulating access to and the use of the rights-of-way are fully compensated by the persons seeking such access and causing such costs;
- C. Secure fair and reasonable compensation to the city and its residents for permitting use of the rights-of-way by persons who generate revenue by placing, owning, or operating facilities therein;
- D. Assure that all utility companies, persons, and other entities owning or operating facilities or providing services within the city register and comply with the ordinances, rules, and regulations of the city;
- E. Assure that the city can continue to fairly and responsibly protect the public health, safety and welfare of its residents, and assure the structural integrity of its rights-of-way when a primary cause for the early and excessive deterioration of the rights-of-way is their frequent excavation by persons whose facilities are located therein;
- F. Encourage the provision of advanced and competitive utility services on the widest possible basis to businesses and residents of the city; and
- G. Comply with applicable provisions of state and federal law.

(Ord. 18-24 §1)

§ 15.06.030. Jurisdiction.

- A. The city has jurisdiction and exercises regulatory management over all rights-of-way within the city under authority of the City Charter and state law.
- B. The city has jurisdiction and exercises regulatory management over each right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way, and whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.
- C. The exercise of jurisdiction and regulatory management of a right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

D. The provisions of this chapter are subject to and will be applied consistent with applicable state and federal laws, rules, and regulations, and to the extent possible, will be interpreted to be consistent with such laws, rules, and regulations.

(Ord. 18-24 §1)

§ 15.06.040. Regulatory Fees and Compensation Not a Tax.

- A. The fees and costs provided for in this chapter, and any compensation charged and paid for use of the rights-of-way provided for in this chapter, are separate from, and in addition to, any and all other federal, state, local and city charges, including, but not limited to, any permit fee, or any other generally applicable fee, tax or charge on the business, occupation, property or income, as may be levied, imposed or due from a utility operator, its customers or subscribers, or on account of the lease, sale, delivery or transmission of utility services.
- B. The city has determined that any fee or tax provided for by this chapter is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees or taxes are not imposed on property or property owners.
- C. The fees and costs provided for in this chapter are subject to applicable federal and state laws.

(Ord. 18-24 §1)

§ 15.06.050. Definitions.

For the purpose of this chapter the following terms, phrases, words and their derivations have the meaning given herein. When not inconsistent with the context, words not defined herein have the meaning set forth in the Communications Act of 1934, as amended; the Cable Act; and the Telecommunications Act. If not defined in those statutes, the words will be given their common and ordinary meaning. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "will" is mandatory and "may" is permissive.

"Cable Act" means the Cable Communications Policy Act of 1984, 47 U.S.C. Section 521, et seq., as now and hereafter amended.

"Cable service" is to be defined consistent with Federal laws and means the one-way transmission to subscribers of: (1) video programming; or (2) other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"City" means the City of Tigard, an Oregon municipal corporation, and individuals authorized to act on the city's behalf.

"City Council" means the elected governing body of the City of Tigard, Oregon.

"City facilities" means city or publicly owned structures or equipment located within the rights-of-way or public easement used for governmental purposes.

"City property" means and includes all real property owned by the city, other than public rights-of-way and utility easements, as those are defined herein; all property held in proprietary capacity by the city.

"City standards" means the applicable engineering and public improvement design standards in

effect at the time of any work subject to this chapter.

"Communications services" means any service provided for the purpose of transmission of information including, but not limited to, voice, video or data, without regard to the transmission protocol employed, whether or not the transmission medium is owned by the provider itself. Communications services includes all forms of telephone services and voice, video, data or information transport, but does not include: (1) cable service; (2) open video system service, as defined in 47 C.F.R. 76; (3) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; (4) public communications systems; and (5) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act.

"Construction" means any activity in the public right-of-way resulting in physical change thereto, including excavation or placement of structures.

"Days" means calendar days, unless otherwise specified.

"Emergency" means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.

"Gross revenue" means any and all amounts, of any kind, nature, or form, without deduction for expense, less net uncollectables, derived from the operation of utility facilities in the city and the provision of utility service in the city, subject to all applicable limitations in state and federal law.

"License" means the authorization granted by the city to a utility operator pursuant to this chapter.

"Person" means and includes any individual, firm, sole proprietorship, corporation, company, partnership, co-partnership, joint-stock company, trust, limited liability company, association, local service district, governmental entity, or other organization, including any natural person or any other legal entity.

"Private communications system" means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for sale or resale, including trade, barter or other exchange of value, directly or indirectly, to any person.

"Public communications system" means any system owned or operated by a government entity or entities for their exclusive use for internal communications or communications with other government entities, and includes services provided by the State of Oregon pursuant to ORS 283.140. "Public communications system" does not include any system used for sale or resale, including trade, barter or other exchange of value, of communications services or capacity on the system, directly or indirectly, to any person.

"Public utility easement" means the space in, upon, above, along, across, over or under an easement for the construction, reconstruction, operation, maintenance, inspection and repair of utility facilities. "Public utility easement" does not include an easement: (1) that has been privately acquired by a utility operator; (2) solely for the construction, reconstruction, operation, maintenance, inspection and repair of city facilities; or (3) where the proposed use by the utility operator is inconsistent with the terms of another easement granted to the city that applies to the same location.

"Public Works Director" means the Public Works Director for the City of Tigard or any designee.

"Rights-of-way" means and includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland or other city property not generally open to the public for travel. This definition applies only to the extent of the city's right, title, interest and authority to grant a license to occupy and use such areas for utility facilities.

"State" means the State of Oregon.

"Telecommunications Act" means the Communications Act of 1934, as amended by subsequent enactments including the Telecommunication Act of 1996 (47 U.S.C., 151 et seq.) and as hereafter amended.

"Utility facility" or "facility" means any physical component of a system or network, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, transmitters, plants, antennas, equipment and other facilities, located within, under or above the rights-of-way, any portion of which is used or designed to be used to deliver, transmit or otherwise provide utility service.

"Utility operator" or "operator" means any person who owns, places, operates or maintains a utility facility within the city.

"Utility provider" or "provider" means any person who provides utility service to customers within the city limits, whether or not any facilities in the right-of-way are owned by such provider.

"Utility service" means the provision, by means of utility facilities permanently located within, under or above the rights-of-way, whether or not such facilities are owned by the service provider, of electricity, natural gas, communications services, cable services, water, sewer, or storm sewer, to or from customers within the corporate boundaries of the city, or the transmission of any of these services through the city whether or not customers within the city are served by those transmissions.

"Work" means the construction, demolition, installation, replacement, repair, maintenance or relocation of any utility facility, including, but not limited to, any excavation and restoration required in association with such construction, demolition, installation, replacement, repair, maintenance or relocation.

(Ord. 18-24 §1)

§ 15.06.060. Registration.

Every person who desires to provide utility services to customers within the city must register with the city prior to providing any utility services to any person in the city or using any facilities, in compliance with Tigard Municipal Code Chapter 5.04.

(Ord. 18-24 §1)

§ 15.06.070. Licenses.

A. License Required.

1. Except those utility operators and providers with a valid franchise agreement from the city, every person must obtain a license from the city prior to conducting any work in or using the rights-of-way.

2. Every person that owns or controls utility facilities in the rights-of-way as of the effective date of this chapter must apply for a license from the city within 45 days of the later of: (a) the effective date of this chapter, or (b) the expiration of a valid franchise from the city, unless a new franchise is granted by the city pursuant to subsection E of this section.
- B. License Application. The license application will be on a form provided by the city, and must be accompanied by any additional documents required by the application to identify the applicant, its legal status, including its authorization to do business in Oregon, a description of the type of utility service provided or to be provided by the applicant, the facilities and ownership of facilities over which the utility service will be provided, and other information reasonably necessary to determine the applicant's ability to comply with the terms of this chapter. If the applicant is proposing to attach to facilities other than city-owned infrastructure, the applicant must include an authorization from the facility owner. In the event the information submitted on the application changes after the issuance of a license, the licensee must notify the city of such changes within 30 days of the change.
- C. License Application Fee. The application must be accompanied by a nonrefundable application fee or deposit set by resolution of the City Council.
- D. Determination by City. The city will issue, within a reasonable period of time, a written determination granting or denying the license in whole or in part. If the license is denied, the written determination will include the reasons for denial. The license will be evaluated based upon the provisions of this chapter, the continuing capacity of the rights-of-way to accommodate the applicant's proposed utility facilities and the applicable federal, state and local laws, rules, regulations and policies.
- E. Franchise Agreements. If the public interest warrants, the city and utility operator or provider may enter into a written franchise agreement that includes terms that clarify, enhance, expand, waive or vary the provisions of this chapter, consistent with applicable state and federal law. The franchise may conflict with the terms of this chapter with the review and approval of the City Council. The franchise will be subject to the provisions of this chapter to the extent such provisions are not in conflict with any such franchise. In the event of a conflict between the express provisions of a franchise and this chapter, the franchise will control.
- F. Rights Granted.
1. The license granted hereunder authorizes and permits the licensee, subject to the provisions of the city code and other applicable provisions of state or federal law, to construct, place, maintain and operate utility facilities in the rights-of-way for the term of the license for the provision of utility service(s) authorized in the license. In the event the licensee offers different service(s) than those authorized in the license, the licensee will inform the city of such changes no longer than 30 days after the change.
 2. Any license granted pursuant to this chapter does not convey equitable or legal title in the rights-of-way, and may not be assigned or transferred except as permitted in subsection K of this section.
 3. Neither the issuance of the license nor any provisions contained therein constitutes a waiver or bar to the exercise of any governmental right or power, including, without

limitation, the police power or regulatory power of the city, as it may exist at the time the license is issued or thereafter obtained.

- G. Term. Subject to the termination provisions in subsection M of this section, the license granted pursuant to this chapter will be effective as of the date it is issued by the city or the date services began, whichever comes first, and will have a term of five calendar years beginning: (1) January 1st of the year in which the license took effect for licenses that become effective between January 1st and June 30th; or (2) January 1st of the year after the license took effect for licenses that become effective between July 1st and December 31st.
- H. License Nonexclusive. No license granted pursuant to this section confers any exclusive right, privilege, license or franchise to occupy or use the rights-of-way for delivery of utility services or any other purpose. The city expressly reserves the right to grant licenses, franchises or other rights to other persons, as well as the city's right to use the rights-of-way, for similar or different purposes. The license is subject to all recorded deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title of record that may affect the rights-of-way. Nothing in the license grants, conveys, creates, or vests in licensee a real property interest in land, including any fee, leasehold interest or easement.
- I. Reservation of City Rights. Nothing in the license prevents the city from grading, paving, repairing or altering any rights-of-way, constructing, laying down, repairing, relocating or removing city facilities or establishing any other public work, utility or improvement of any kind, including repairs, replacement or removal of any city facilities. If any of licensee's utility facilities interfere with the construction, repair, replacement, alteration or removal of any rights-of-way, public work, city utility, city improvement or city facility, except those providing utility services in competition with a licensee, licensee's facilities will be removed or relocated as provided in TMC 15.06.090, in a manner acceptable to the city and consistent with industry standard engineering and safety codes.
- J. Multiple Services.
 - 1. A utility provider that provides or transmits or allows the provision or transmission of utility services and other services over its facilities is subject to the license and right-of-way fee requirements of this chapter for the portion of the facilities and extent of utility services delivered over those facilities. Nothing in this subsection J.1. requires a utility operator to pay the license, registration or right-of-way fee requirements owed to the city by a third party using the utility operator's facilities.
 - 2. A utility provider that provides or transmits more than one utility service to customers in the city is not required to obtain a separate license or franchise for each utility service; provided, that it gives notice to the city of each utility service provided or transmitted and pays the applicable rights-of-way fee for each utility service.
- K. Transfer or Assignment. To the extent allowed by applicable state and federal laws, the licensee must obtain the written consent of the city prior to the transfer or assignment of the license; such consent will not be unreasonably withheld. The license may not be transferred or assigned unless the proposed transferee or assignee is authorized under all applicable laws to own or operate the utility facilities or provide the utility service authorized under the license and the transfer or assignment is approved by all agencies or organizations required or authorized under federal and state laws to approve such transfer or assignment. If a license is transferred or assigned, the transferee or assignee becomes

responsible for fulfilling all the obligations under the license. A transfer or assignment of a license does not extend the term of the license.

L. Renewal. At least 30, but no more than 120, days prior to the expiration of a license granted pursuant to this section, a licensee seeking renewal of its license must submit a license application to the city, including all information required in subsection B of this section and the application fee required in subsection C of this section. The city will review the application as required by subsection D of this section and grant or deny the license within 90 days of submission of the application, or such shorter period of time as may be required by law. If the city determines that the licensee is in violation of the terms of this chapter at the time it submits its application, the city may require that the licensee cure the violation or submit a detailed plan to cure the violation within a reasonable period of time, as determined by the city, before the city will consider the application or grant the license. If the city requires the licensee to cure or submit a plan to cure a violation, the city will grant or deny the license application within 90 days of confirming that the violation has been cured or of accepting the licensee's plan to cure the violation.

M. Termination.

1. Revocation or Termination of a License. The City Council may terminate or revoke the license granted pursuant to this chapter for any of the following reasons:
 - a. Violation of any of the provisions of this chapter;
 - b. Violation of any provision of the license;
 - c. Misrepresentation in a license application;
 - d. Failure to pay taxes, compensation, fees or costs due the city after final determination by the city of the taxes, compensation, fees or costs;
 - e. Failure to restore the rights-of-way after construction as required by this chapter or other applicable state and local laws, ordinances, rules, and regulations;
 - f. Failure to comply with technical, safety and engineering standards related to work in the rights-of-way; or
 - g. Failure to obtain or maintain any and all licenses, permits, certifications and other authorizations required by state or federal law for the placement, maintenance or operation of the utility facilities.
2. Standards for Revocation or Termination. In determining whether termination, revocation or some other sanction is appropriate, the following factors will be considered:
 - a. Whether the violation was intentional;
 - b. The egregiousness of the violation;
 - c. The harm that resulted;
 - d. The licensee's history of compliance; and
 - e. The licensee's cooperation in discovering, admitting and curing the violation.

3. Notice and Cure. The city will give the utility operator written notice of any apparent violations before terminating a license. The notice will include a clear and concise statement of the nature and general facts of the violation or noncompliance and provide a reasonable time (no less than 20 and no more than 40 days) for the utility operator to demonstrate that the utility operator has remained in compliance, that the utility operator has cured or is in the process of curing any violation or noncompliance, or that it would be in the public interest to impose a penalty or sanction less than termination or revocation. If the utility operator is in the process of curing a violation or noncompliance, the utility operator must demonstrate that it acted promptly and continues to actively work on compliance. If the utility operator does not respond, the Public Works Director may refer the matter to the City Council, which will provide a duly noticed public hearing to determine whether the license will be terminated or revoked.
4. Termination by Licensee. If a licensee ceases to use the city's rights-of-way, the licensee may terminate its license upon 30-days' notice to the city.

(Ord. 18-24 §1)

§ 15.06.080. Construction and Restoration.

- A. Construction Codes. Utility facilities must be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules, and regulations in effect at the time of the work, including without limitation the National Electrical Code, the National Electrical Safety Code, Tigard Development Code Chapter 18.910, and the city's Public Works Improvement Design Standards.
- B. Construction Permits. No person may perform any work on utility facilities within the rights-of-way without first obtaining a right-of-way permit pursuant to TMC Chapter 15.04. Notwithstanding, for routine maintenance or repair that does not alter or disturb the right-of-way, such as replacement of a light fixture or trimming of trees, the city may elect to not require a right-of-way permit provided the city receives notice of the planned maintenance repair, along with emergency contact information, as soon as reasonably practical.

(Ord. 18-24 §1)

§ 15.06.090. Location of Facilities.

- A. Location of Facilities. All utility operators are required to make a good faith effort to both cooperate with and coordinate their construction schedules with those of the city and other users of the rights-of-way.
- B. Unless otherwise agreed to in writing by the city, whenever any existing electric utilities, cable facilities or communications facilities are located underground within a right-of-way of the city, a utility operator with permission to occupy the same right-of-way will locate its new facilities underground at its own expense. This requirement does not apply to facilities used for transmission of electric energy at nominal voltages in excess of 35,000 volts or to antennas, streetlight poles, pedestals, cabinets or other above-ground equipment of any utility operator. No such above-ground equipment, or any aerial facilities other than electric energy transmission wires in excess of 35,000 volts, may be constructed without the written approval of the city, in addition to the permit required by TMC Section 15.06.080.B.

C. Interference with the Rights-of-Way. No utility operator or other person may locate or maintain its facilities so as to unreasonably interfere with the use of the rights-of-way by the city, by the general public or by other persons authorized to use or be present in or upon the rights-of-way. All use of the rights-of-way must be consistent with city codes, ordinances, rules, and regulations.

D. Relocation of Utility Facilities.

1. When requested to do so in writing by the city, a utility operator will, at no cost to the city, temporarily or permanently remove, relocate, change or alter the position of any utility facility within a right-of-way, including relocation of aerial facilities underground, except those facilities not required to be located underground pursuant to subsection B of this section.
2. Nothing herein precludes the utility operator from requesting reimbursement or compensation from a third party, pursuant to applicable laws, regulations, tariffs or agreements. However, the utility operator must timely comply with the requirements of this section regardless of whether or not it has requested or received such reimbursement or compensation.
3. The city will coordinate the schedule for relocation of utility facilities and based on such effort, provide written notice of the time by which the utility operator must remove, relocate, change, alter or underground its facilities. If a utility operator fails to remove, relocate, change, alter or underground any utility facility as requested by the city and by the date reasonably established by the city, the utility operator will pay all costs incurred by the city due to such failure, including, but not limited to, costs related to project delays, and the city may cause, using qualified workers in accordance with applicable state and federal laws and regulations, the utility facility to be removed, relocated, changed, altered or undergrounded at the utility operator's sole expense. Upon receipt of a detailed invoice from the city, the utility operator will reimburse the city within 30 days for the costs the city incurred.

E. Removal of Unauthorized Facilities.

1. Unless otherwise agreed to in writing by the city, within 30 days following written notice from the city or such other time agreed to in writing by the city, a utility operator and any other person that owns, controls or maintains any abandoned or unauthorized utility facility within a right-of-way will, at its own expense, remove the facility and restore the right-of-way to city standards.
2. A utility facility, or any portion of the facility, is unauthorized under any of the following circumstances:
 - a. The utility facility is outside the scope of authority granted by the city under the license, franchise or other written agreement. This includes facilities that were never licensed or franchised and facilities that were once licensed or franchised but for which the license or franchise has expired or been terminated. This does not include any facility for which the city has provided written authorization for abandonment in place.
 - b. The facility has been abandoned and the city has not provided written authorization for abandonment in place. A facility is abandoned if it is not in use

and is not planned for further use. A facility will be presumed abandoned if it is not used for a period of one year. A utility operator may attempt to overcome this presumption by presenting plans for future use of the facility to the city, which will determine application of the presumption in its sole discretion.

- c. The utility facility is improperly constructed or installed or is in a location not permitted by the construction permit, license, franchise or this chapter.
- d. The utility operator is in violation of a material provision of this chapter and fails to cure such violation within 30 days of the city sending written notice of such violation, unless the city extends such time period in writing.

F. Removal by City.

1. The city retains the right and privilege to cut or move any utility facilities located within the rights-of-way of the city, without notice, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency. The city will use qualified personnel or contractors consistent with applicable state and federal safety laws and regulations to the extent reasonably practicable without impeding the city's response to the emergency. The city will attempt to notify the utility operator of any cutting or moving of facilities prior to doing so. If such notice is not practical, the city will notify the utility operator as soon as reasonably practical after resolution of the emergency.
2. If the utility operator fails to remove any facility when required to do so under this chapter, the city may remove the facility using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations, and the utility operator will be responsible for paying the full cost of the removal and any administrative costs incurred by the city in removing the facility and obtaining reimbursement. Upon receipt of a detailed invoice from the city, the utility operator will reimburse the city for the costs the city incurred within 30 days. The obligation to remove survives termination of the license or franchise.
3. The city is not liable to any utility operator for any damage to utility facilities, or for any consequential losses resulting directly or indirectly therefrom, by the city or its contractor in removing, relocating or altering the facilities pursuant to subsection D, E, or F of this section or undergrounding its facilities as required by subsection B of this section, or resulting from the utility operator's failure to remove, relocate, alter or underground its facilities as required by those subsections, unless such damage arises directly from the city's negligence or willful misconduct.

G. Engineering Designs and Plans. The utility operator will, at no cost to the city, provide the city with two complete sets of as-built plans in a form acceptable to the city showing the location of all its utility facilities in the rights-of-way after initial construction if the utility operator's engineered plans materially changed during construction. The utility operator will provide two updated complete sets of as-built plans upon request of the city and at no cost to the city, but not more than once per year. The utility provider will also provide, at no cost to the city, a comprehensive map showing the location of any facilities in the city. Such map will be provided in a format acceptable to the city with accompanying data sufficient for the city to determine the exact location of facilities (GIS). The city may not request such information more than once per calendar year.

(Ord. 18-24 §1)

§ 15.06.100. Leased Capacity.

A utility operator may lease capacity on or in its facilities to others, provided that, upon request, the utility operator provides the city with the name and business address of any lessee. A utility operator is not required to provide such information if disclosure is prohibited by applicable law or a valid agreement between the utility operator and the lessee, provided that the utility operator requires that all lessees have obtained proper authority, in the form of a permit, license, or franchise from the city before leasing capacity on its system.

(Ord. 18-24 §1)

§ 15.06.110. Maintenance.

- A. Every utility operator will install and maintain all facilities in a manner that complies with applicable federal, state and local laws, rules, regulations and policies. The utility operator will, at its own expense, repair and maintain facilities from time to time as may be necessary to accomplish this purpose.
- B. If, after written notice from the city of the need for repair or maintenance, a utility operator fails to repair and maintain facilities as requested by the city and by the date reasonably established by the city, the city may perform such repair or maintenance using qualified personnel or contractors at the utility operator's sole expense. Upon receipt of a detailed invoice from the city, the utility operator will reimburse the city for the costs the city incurred within 30 days.

(Ord. 18-24 §1)

§ 15.06.120. Vacation.

If the city vacates any rights-of-way, or portion thereof, that a utility operator uses, the utility operator will, at its own expense, remove its facilities from the rights-of-way unless the city reserves a public utility easement, which the city will make a reasonable effort to do provided that there is no expense to the city; or the utility operator obtains an easement for its facilities. If the utility operator fails to remove its facilities within 90 days after a right-of-way is vacated, or as otherwise directed or agreed to in writing by the city, the city may remove the facilities using qualified workers in accordance with state and federal laws and regulations at the utility operator's sole expense. Upon receipt of a detailed invoice from the city, the utility operator will reimburse the city within 30 days for the costs the city incurred.

(Ord. 18-24 §1)

§ 15.06.130. Rights-of-Way Fee.

- A. Except as provided in subsection B of this section, every person that owns utility facilities in the city and every person that uses utility facilities in the city to provide utility service, whether or not the person owns the utility facilities used to provide the utility services, must pay the rights-of-way fee for every utility service provided using the rights-of-way in the amount determined by resolution of the City Council.
- B. A utility operator whose only facilities in the rights-of-way are facilities mounted on structures within the rights-of-way, which structures are owned by another person, and with no facilities strung between such structures or otherwise within, under or above the rights-

of-way, will pay the attachment fee set by City Council resolution for each attachment. Unless otherwise agreed to in writing by the city, the fee will be paid quarterly, in arrears, within 45 days after the end of each calendar quarter, and will be accompanied by information sufficient to illustrate the calculation of the amount payable.

- C. Unless otherwise agreed to in writing by the city, the fee set forth in subsection A of this section will be paid quarterly, in arrears, for each quarter during the term of the license within 45 days after the end of each calendar quarter, and will be accompanied by an accounting of gross revenues, if applicable, and a calculation of the amount payable.
- D. The calculation of the rights-of-way fee required by this section is subject to all applicable limitations imposed by federal or state law.
- E. The city reserves the right to enact other fees and taxes applicable to the utility operators subject to this chapter. Unless expressly permitted by the city in enacting such fee or tax, or required by applicable state or federal law, no utility operator may deduct, offset or otherwise reduce or avoid the obligation to pay any lawfully enacted fees or taxes based on the payment of the rights-of-way fee or any other fees required by this chapter.
- F. Acceptance of any payment will not be construed as accord that the amount paid is in fact the correct amount, nor may such acceptance of payment be construed as a release of any claim the city may have for further or additional sums payable.

(Ord. 18-24 §1)

§ 15.06.140. Records and Audits.

- A. Within 30 days of a written request from the city, or as otherwise agreed to in writing by the city:
 - 1. Every utility operator or provider of utility service will furnish the city with information sufficient to demonstrate that the provider is in compliance with all the requirements of this chapter and its franchise agreement, if any, including, but not limited to, payment of any applicable business registration fee, license fee, rights-of-way fee, or franchise fee.
 - 2. Every utility operator will make available for inspection by the city at reasonable times and intervals all maps, records, books, diagrams, plans and other documents maintained by the utility operator with respect to its facilities within the rights-of-way. Access will be provided within the city unless prior arrangement for access elsewhere has been made with the city.
- B. If the city conducts an audit and the city's audit of the books, records and other documents or information of the utility operator or utility service provider demonstrates that the utility operator or provider has underpaid the rights-of-way fee or franchise fee by three percent or more in any one year, the utility operator will reimburse the city for the cost of the audit, in addition to any penalties owed pursuant to TMC Section 15.06.180 or as specified in a franchise.
- C. Any underpayment, including any penalty or audit cost reimbursement, will be paid within 30 days of the city's notice to the utility operator or provider of such underpayment.

(Ord. 18-24 §1)

§ 15.06.150. Insurance and Indemnification.**A. Insurance.**

1. All utility operators will maintain in full force and effect the following liability insurance policies that protect the utility operator and the city, as well as the city's officers, agents, and employees as additional insureds:
 - a. Comprehensive general liability insurance with limits not less than \$3 million for bodily injury or death to each person, \$3 million for property damage resulting from any one accident, and \$3 million for all other types of liability.
 - b. Motor vehicle liability insurance for owned, non-owned, and hired vehicles with a limit of \$2 million for each person and \$3 million for each accident.
 - c. Workers compensation insurance with statutory limits and employer's liability with limits not less than \$1 million.
2. The limits of the insurance will be subject to statutory changes as to maximum limits of liability imposed on municipalities of the State of Oregon. The insurance will be without prejudice to coverage otherwise existing (excepting workers' compensation insurance) and include, as additional insureds the city and its officers, agents and employees. The coverage must apply as to claims between insureds on the policy. The utility operator will provide the city 30 days' prior written notice of any cancellation or material alteration of said insurance. If the insurance is canceled or materially altered, the utility operator will maintain continuous uninterrupted coverage in the terms and amounts required. The utility operator may self-insure, or keep in force a self-insured retention plus insurance, for any or all of the above coverage.
3. The utility operator will maintain on file with the city proof of self-insurance acceptable to the city, certifying the coverage required above.

B. Financial Assurance. Unless otherwise agreed to in writing by the city, before a franchise granted or a license issued pursuant to this chapter is effective, and as necessary thereafter, the utility operator will provide a performance bond or other financial security, in a form acceptable to the city, as security for the full and complete performance of the franchise or license, and for compliance with the terms of this chapter, including any costs, expenses, damages or loss to the city because of any failure attributable to the utility operator to comply with the codes, ordinances, rules, regulations or permits of the city. This obligation is in addition to any financial guarantee required pursuant to TMC Chapter 15.04.**C. Indemnification.**

1. To the fullest extent permitted by law, each utility operator will defend, indemnify and hold harmless the city and its officers, employees, agents and representatives from and against any and all liability, causes of action, claims, damages, losses, judgments and other costs and expenses, including attorney fees and costs of suit or defense (at both the trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity in any way arising out of, resulting from, during or in connection with, or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failure to act or other misconduct of the utility operator or its affiliates, officers, employees, agents, contractors,

subcontractors or lessees in the construction, operation, maintenance, repair or removal of its facilities, and in providing or offering utility services over the facilities, whether such acts or omissions are authorized, allowed or prohibited by this chapter or by a franchise agreement. The acceptance of a license under TMC Section 15.06.070 constitutes such an agreement by the applicant whether the same is expressed or not. Upon notification of any such claim the city will notify the utility operator and provide the utility operator with an opportunity to provide defense regarding any such claim.

2. Every utility operator will also indemnify the city for any damages, claims, additional costs or expenses assessed against or payable by the city arising out of or resulting, directly or indirectly, from the utility operator's failure to remove or relocate any of its facilities in the rights-of-way or easements in a timely manner, unless the utility operator's failure arises directly from the city's negligence or willful misconduct.

(Ord. 18-24 §1)

§ 15.06.160. Compliance.

Every utility operator or provider will comply with all applicable federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all applicable ordinances, resolutions, rules, and regulations of the city, heretofore or hereafter adopted or established during the term of any license granted under this chapter.

(Ord. 18-24 §1)

§ 15.06.170. Confidential/Proprietary Information.

If any person is required by this chapter to provide books, records, maps or information to the city that the person reasonably believes to be confidential or proprietary, the city will take reasonable steps to protect the confidential or proprietary nature of the books, records, maps or information to the extent permitted by the Oregon Public Records Law; provided, that all documents are clearly marked as confidential by the person at the time of disclosure to the city. In the event the city receives a public records request to inspect any confidential information and the city determines that it will be necessary to reveal the confidential information, to the extent reasonably possible the city will notify the person who submitted the confidential information of the records request prior to releasing the confidential information. The city is not required to incur any costs to protect such documents, other than the city's routine internal procedures for complying with the Oregon Public Records Law.

(Ord. 18-24 §1)

§ 15.06.180. Penalties.

- A. Any person who fails to timely pay the right-of-way fee pursuant to TMC Section 15.06.130 is subject to the following penalties:

1. First occurrence during any calendar year: 10% of the amount owed or \$25, whichever is greater.
2. Second occurrence during any calendar year: 15% of the amount owed or \$50, whichever is greater.
3. Third occurrence during any calendar year: 20% of the amount owed or \$75,

whichever is greater.

4. Fourth occurrence during any calendar year: 25% of the amount owed or \$100, whichever is greater.
- B. Penalties imposed are merged with, and become part of, the fee required to be paid.
- C. The City Finance Director, in the Director's sole discretion, may reduce or waive the penalties in this section.
- D. Payment of penalties is due with the next regular quarterly right-of-way fee payment.
(Ord. 18-24 §1)

§ 15.06.190. Violations.

- A. Any person found in violation of any of the provisions of this chapter or the license are subject to a penalty of not less than \$150 nor more than \$2,500 for each offense. A violation will be deemed to exist separately for each and every day during which a violation exists.
- B. Nothing in this chapter limits any judicial or other remedies the city may have at law or in equity, for enforcement of this chapter.
(Ord. 18-24 §1)

§ 15.06.200. Severability and Preemption.

- A. The provisions of this chapter will be interpreted to be consistent with applicable federal and state law, and, to the extent possible, to cover only matters not preempted by federal or state law.
- B. If any article, section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this chapter is for any reason declared or held to be invalid or unenforceable by any court of competent jurisdiction or superseded by state or federal legislation, rules, regulations or decision, the remainder of this chapter will not be affected thereby but will be deemed as a separate, distinct and independent provision. Such holding will not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this chapter will be valid and enforceable to the fullest extent permitted by law. In the event any provision is preempted by federal or state laws, rules or regulations, the provision will be preempted only to the extent required by law and any portion not preempted will survive. If any federal or state law resulting in preemption is later repealed, rescinded, amended or otherwise changed to end the preemption, such provision will thereupon return to full force and effect and will thereafter be binding without further action by the city.

(Ord. 18-24 §1)

§ 15.06.210. Application to Existing Agreements.

To the extent that this chapter is not in conflict with and can be implemented consistent with existing franchise agreements, this chapter applies to all existing franchise agreements granted to utility operators by the city.

(Ord. 18-24 §1)

**CHAPTER 15.08
STREET VACATIONS**

§ 15.08.010. Purpose.

The purpose of this chapter is to establish procedures for the vacation of a street, way, alley, plat, public square or other public places.

(Ord. 85-01 §1)

§ 15.08.020. Scope—Statutory Procedures Applicable.

- (a) This chapter shall apply to the vacation of all or part of any street, avenue, boulevard, alley, plat, public square or other public place.
- (b) Whenever deemed in the public interest, the city may vacate a public place as provided by ORS 271.080, et seq.

(Ord. 85-01 §1; Ord. 18-13 §1)

CHAPTER 15.10 DRIVEWAY APPROACHES AND CURB CUTS

§ 15.10.010. Definitions.

Apron. As used in this chapter, "apron" means that portion of the driveway approach extending from the gutter flow line to the property line.

Curb return. As used in this chapter, "curb return" means the curved-portions of a curb in the end slopes of a driveway approach.

Driveway. As used in this chapter, "driveway" means an area designated for vehicular use, other than a designated parking area, not dedicated or set aside for public use.

Driveway approach. As used in this chapter, "driveway approach" means an area, construction or improvement between the roadway of a public street and private property intended to provide access for vehicles from the roadway of a public street to a definite area, a driveway, or a door at least seven feet wide, intended and used for the ingress and egress of vehicles. The component parts of the driveway approach are termed the apron, the end slopes or the curb return.

End slopes. As used in this chapter, "end slopes" means those portions of the driveway approach which provide a transition from the normal curb and sidewalk sloping surface or by means of a curb return together with the area between the projected tangents of the curb return.

Person. As used in this chapter, "person" means every natural person, firm, co-partnership, association, public or private corporation or entity, or district.

Right-of-way. As used in this chapter, "right-of-way" includes City streets, roads, bridges, alleys, sidewalks, trails, paths, and all other public ways and areas managed by the City.

Sidewalk. As used in this chapter, "sidewalk" means an area specifically delineated and constructed for pedestrian use located behind a curb but within the rights-of-way or within an easement specifically established for that purpose.

Street or Alley. As used in this chapter, "street" or "alley" means every way or place open as a matter of right to the use of the public for vehicular or pedestrian traffic between right-of-way lines.

(Ord. 06-11)

§ 15.10.020. Driveway Approaches and Curb Cuts.

1. The permit provided chapter 15.04 authorizes relocation of any municipal facility, including any within the limits of a curb return which may be encroached upon or allowed, providing that the applicant first notifies the appropriate authority, obtains the appropriate authorization and bears the cost of the relocation of the municipal facility.
2. Except for shared driveways, no driveway approach or access shall be less than six feet from the side property line projected, except in cul-de-sacs, without written permission of the City Engineer. End slopes shall not be considered part of the driveway approach or access.
3. No portion of any driveway approach, including the end slopes, shall be located closer than thirty feet to an intersecting street right-of-way line.
4. Commercial or service drives shall not be more than forty feet in width and if located on

the same lot frontage shall be separated by a minimum length of curb of thirty feet.

5. Each residential driveway shall not be more than thirty feet in width including end slopes, and if more than one driveway is to be constructed to serve the same lot, the frontage spacing between such driveways shall be not less than thirty feet measured along the curb line.
6. Joint access driveways shall conform to the appropriate width standard for commercial or residential type usage.
(Ord. 74-14 §8; Ord. 02-22 ; Ord. 06-11)

§ 15.10.030. Areas of Limited Street Improvements.

1. Where standard gutter and curbs have been installed but where concrete sidewalks have not been installed, the applicant shall be required to construct the driveway approach from curb line to the applicant's premises. The cost shall be borne by the applicant.
2. Where standard gutter and curbs have not been installed, the driveway approach may be constructed of the same material used for surfacing the driveway. The applicant shall improve that portion between the property line and existing pavement in such a manner as to not impede surface drainage along the street. The cost of that portion of the improvement, between the property line and existing pavement, shall be borne by the applicant.
(Ord. 74-14 §9; Ord. 06-11)

§ 15.10.040. Abandoned Driveway Approaches.

In the event a person makes an application to relocate a driveway approach and abandons an existing driveway approach, the applicant shall remove the existing driveway and replace the curb to a standard curb section at his own expense.

(Ord. 74-14 §10; Ord. 06-11)

§ 15.10.050. Sufficient Parking Required.

No permit for the construction of new driveway approaches shall be issued unless the property served has the minimum parking required by the Community Development Code.

(Ord. 74-14 §11; Ord. 02-22 ; Ord. 06-11)

§ 15.10.060. Penalties.

Failure to comply with a provision of this chapter shall be a Class 1 civil infraction.

(Ord. 06-11)

CHAPTER 15.12 SIDEWALKS

§ 15.12.010. Maintenance and Repair of Public Sidewalks.

It is the duty of all persons owning lots or land which have public sidewalks abutting the same, to maintain and keep in repair the sidewalks and not permit them to become or remain in a dangerous or unsafe condition. "Maintenance" includes, but is not limited to, the removal of snow and ice. Any owner of a lot or land who neglects to promptly comply with the provisions of this section is fully liable to any person injured by such negligence. The City shall be exempt from all liability, including but not limited to common-law liability, that it might otherwise incur to an injured party as a result of the City's negligent failure to maintain and repair public sidewalks.

(Ord. 85-44 §3; Ord. 91-12 §1)

CHAPTER 15.16 ENCROACHMENT PERMITS

§ 15.16.010. Encroachments Within Rights-of-Way and Public Property.

- A. Encroachment Permits Required. It is unlawful for any person to erect, or cause to be erected, any encroachment in, over, or upon any right-of-way or public property without having first obtained an encroachment permit from the city engineer authorizing such action.
- B. Application and Fee Required.
 1. Any person proposing to locate or maintain an encroachment within any right-of-way or public property must submit an application to the city engineer. The application will include a description of the proposed encroachment, a scale drawing illustrating the nature and extent of the proposed encroachment, and its relationship to adjoining properties. If the applicant is not the owner of the property benefitted by the encroachment, the owner of that property must also sign the application as a co-applicant. The city engineer may require a survey to determine the exact location of the proposed encroachment.
 2. The applicant must pay a fee in the amount established by resolution of the city council.
- C. Review of Application. The city engineer will review the application to determine if it complies with standards in this chapter and may request comments from affected city departments and utilities regarding the impact of the proposed encroachment.

(Ord. 18-19 §1)

§ 15.16.015. Definitions.

"City engineer" means the city engineer for the City of Tigard or his or her designee.

"City hearings officer" means the municipal judge or the individual appointed by the municipal judge with the delegated authority to preside over code enforcement hearings and to perform the related functions.

"Encroachment" means any privately owned structure, furnishing, hardscape, or underground system other than those authorized by Tigard Municipal Code Chapter 15.06, located in the right-of-way or on public property.

"Furnishing" means an object that is designed to be readily moveable and that is not permanently affixed to the ground, such as a café table or tent.

"Public property" means any premises owned or maintained by the city.

"Right-of-way" means an area that allows for the passage of people, goods, or utilities. Right-of-way may include freeways, pedestrian connections, and streets. A right-of-way may be dedicated or deeded to the public for the public use or owned by the city or other public body.

(Ord. 18-19 §1)

§ 15.16.020. Exemptions.

- A. Certain encroachments are exempt from the permit requirement of Section 15.16.010.

Exempt encroachments are those which would have a minor impact on the present or planned use of the right-of-way or public property and those which are expressly permitted by this code. Exempt encroachments are:

1. Mailboxes;
 2. Temporary signs or A-frame signs allowed by the Sign Code;
 3. Transportation improvements required by Tigard Community Development Code Chapter 18.910 and authorized by a right-of-way permit issued pursuant to Tigard Municipal Code Chapter 15.04; or
 4. Any encroachments authorized by a license or franchise granted pursuant to Tigard Municipal Code Chapter 15.06.
- B. Encroachments existing before November 1, 2018 may remain in place without requiring an encroachment permit, provided they are not:
1. A public safety hazard;
 2. Modified in any way, including repaired, relocated, or reconstructed, but not including routine maintenance; and
 3. Located on or near a benefitting property that is the subject of a land use application or building permit.

(Ord. 18-19 §1)

§ 15.16.030. Permit Issuance.

The city engineer may approve, modify and approve, or deny the application for an encroachment permit based on the standards in Section 15.16.050.

(Ord. 18-19 §1)

§ 15.16.040. Appeals.

- A. An applicant or affected property owner or occupant may appeal the decision of the city engineer to the city hearings officer.
- B. An appeal must be filed with the city engineer within 15 days of the date of the decision. The appeal must include the basis for the appeal and be accompanied by a fee in an amount established by resolution of the city council.
- C. The city hearings officer will provide the appellant and any other affected party a reasonable opportunity to be heard on the question of why the decision of the city engineer should be reversed or modified. The decision of the city hearings officer is a final decision.

(Ord. 18-19 §1)

§ 15.16.050. Standards and Conditions.

The city engineer may approve the issuance of a permit for encroachment within the right-of-way or public property where compliance with the following standards is demonstrated or found to be not applicable. The city engineer may attach any conditions to the issuance of the permit that are reasonably related to ensuring compliance with this section, other applicable city codes

and ordinances, and protection of the public interest.

A. Standards for Approval.

1. The proposed encroachment is expressly authorized by the Tigard Community Development Code or is otherwise in the public interest and consistent with the City's Public Improvement Design Standards.
2. The proposed encroachment does not interfere with the existing or future transportation system or the provision of public utilities.
3. The proposed encroachment does not impede vision clearance or sight distance, pursuant to Tigard Community Development Code Chapter 18.920 or the current AASHTO publication, "A Geometric Design of Highways and Streets," whichever is more restrictive.⁴ The proposed encroachment does not prevent access to, cover, or block the flow of water to or into catch basins, ditches, or swales, and does not otherwise alter the natural drainage patterns in a manner that adversely affects other property.
5. The proposed encroachment maintains minimum applicable vertical clearance for encroachments within the right-of-way, as provided in the Tigard Community Development Code or Manual on Uniform Traffic Control Devices.
6. The proposed encroachment must meet minimum horizontal clearance from public facilities, such as manholes and fire hydrants, as set by the relevant service provider.

B. Standards of Approval for Furnishings. In addition to the standards provided in Section 15.16.050.A, approval of furnishings as encroachments must meet the following additional standards:

1. Furnishings may not be chained, bolted, or otherwise attached to any fixture, tree, or item located in the right-of-way, nor attached to the surface of any right-of-way.
2. Furnishings must identify the name and address of the owner on the exterior of the object, as well as an emergency contact number.
3. Furnishings must maintain a weather proof or weather resistant quality.
4. Furnishings must be designed to be stable and self-supporting under a wind load of at least 20 pounds without attachment to the pavement or other object.

C. Conditions.

1. As a condition of permit issuance, when the city determines that the proposed encroachment may subject the city to potential liability, the city may require the applicant to obtain general liability insurance and file a certificate of insurance with the city from an insurance company acceptable to the city. The policy will name the city, its officers, agents, and employees as additional insureds. The amount of the insurance policy will be determined by the city, but in no case will it be less than the limits of public body liability under the Oregon Tort Claims Act. The policy must also contain a provision that the city will be notified at least 10 days prior to any cancellation of such insurance. The permittee must maintain the insurance for the term of the permit issued. Failure to maintain the insurance results in automatic

revocation of the permit.

2. The city engineer may place a limit on the time the proposed encroachment may be located in or on the right-of-way or public property.
3. To ensure that right-of-way or public property encroachments do not contribute to visual blight or create a safety hazard, the permittee must ensure the encroachment is maintained and kept in a safe condition. This includes, but is not limited to, maintaining a condition which is reasonably free of dirt, rust, and grease, as well as chipped, faded, peeling, or cracked paint. All structural or moving parts must be in working order and pose no safety hazard to the public. Any glass or plastic (such as display windows) must be unbroken and reasonably free of cracks, dents, blemishes, and discoloration.
4. The city may impose a charge for the use of the public right-of-way or public property.
5. The city may require the removal of the encroachment at any time, including when the property benefitted by the encroachment develops.

(Ord. 18-19 §1)

§ 15.16.060. Recording of Permits.

The city may require the permittee to record an approved encroachment permit against the title of the benefitting property. The permittee will pay the costs of recording.

(Ord. 18-19 §1)

§ 15.16.070. Revocation of Permits.

- A. All right-of-way or public property encroachment permits are revocable by the city at any time such revocation would be in the public interest. No grant of any permit, expenditure of money in reliance thereon, or lapse of time gives the permittee any right to the continued existence of an encroachment or to any damages or claims against the city arising from a revocation.
- B. Any permit issued under this chapter will be automatically revoked if the permittee fails to comply with any conditions of the permit or fails to begin installation of the allowed encroachment within 60 days after issuance of the permit, unless the applicant requests an extension prior to the expiration of the 60-day period.

(Ord. 18-19 §1)

§ 15.16.080. Removal of Encroachment.

- A. Upon revocation pursuant to Section 15.16.070, the permittee or any successor permittee, will, at the permittee's own cost, remove the encroachment within 30 days after written notice has been provided by the city unless a shorter period is specified in the notice of revocation. The permittee must ensure that the property is restored to a good and safe condition.
- B. If the permittee does not remove the encroachment and return the right-of-way or public property to a condition satisfactory to the city engineer, the city may do so and the costs of returning the right-of-way or public property to a satisfactory condition, including the

removal of structures, the encroachment and reconstruction of streets or sidewalks, may be imposed as a lien upon the property.

(Ord. 18-19 §1)

§ 15.16.090. Liability.

The permittee, and owner of the benefitted property if different than the permittee, are responsible and liable for all accidents, environmental clean-up, damages or injuries to any person or property resulting from the construction, maintenance, repair, operation or use of an encroachment. The permittee will indemnify, defend, and hold harmless the city, its elected officials, and all officers, employees or agents against any and all damages, claims, demands, actions, causes of action, costs and expenses of whatsoever nature which they or any of them may sustain by reasons of the acts, conduct or operation of the permittee, the permittee's agents, or employees in connection with the construction, maintenance, repair, operation or use of said encroachment and by reason of the existence of an approved right-of-way or public property encroachment.

(Ord. 18-19 §1)

§ 15.16.100. Enforcement.

- A. Installation or maintenance of an encroachment in violation of Section 15.16.010, or failure to obtain an encroachment permit as required by Section 15.16.010, or to comply with the terms and conditions of an encroachment permit issued thereunder is hereby declared a civil infraction subject to enforcement pursuant to Chapter 1.16.
- B. Installation or maintenance of an encroachment in violation of Section 15.16.010, or an encroachment permit issued pursuant to Section 15.16.010 is hereby declared to be a public nuisance pursuant to Title 6 of the Tigard Municipal Code, which may be abated pursuant to Chapter 1.16.

(Ord. 99-31 ; Ord. 12-02 §3; Ord. 18-19 §1)

CHAPTER 15.20 STREET MAINTENANCE FEE

§ 15.20.010. Creation and Purpose.

A street maintenance fee is created and imposed for the purpose of maintenance of city streets. The street maintenance fee shall be paid by the responsible party for each occupied unit of real property. The purposes of the street maintenance fee are to charge for the service the city provides in maintaining public streets and to ensure that maintenance occurs in a timely fashion, thereby reducing increased costs that result when maintenance is deferred.

(Ord. 10-01 §2)

§ 15.20.020. Definitions.

As used in this chapter, the following shall mean:

Public Works Director. The public works director or the public works director's designee.

Developed Property or Developed Use. A parcel or legal portion of real property, on which an improvement exists or has been constructed. Improvement on developed property includes, but is not limited to buildings, parking lots, landscaping and outside storage.

Finance Director. The finance and information services director or designee.

Residential Property. Property that is used primarily for personal domestic accommodation, including single family, multi-family residential property, home occupation businesses and group homes, but not including hotels and motels.

Nonresidential Property. Property that is not primarily used for personal domestic accommodation. Nonresidential property includes industrial, commercial, institutional, hotel and motel, and other nonresidential uses.

Street Functional Classification. Street classifications as described in the Tigard Transportation System Plan.

1. Arterials are defined as streets having regional level connectivity. These streets link major commercial, residential, industrial and institutional areas.
2. Collectors are defined by citywide or district wide connectivity. These streets provide both access and circulation within and between residential and commercial/industrial areas.
3. Neighborhood routes are defined as streets that provide connections within the neighborhood and between neighborhoods. These streets provide connectivity to collectors or arterials.
4. Local commercial/industrial streets are those streets within the city that are not designated as arterials or collectors and whose primary function is serving traffic to and from commercial and/or industrial (i.e., nonresidential) uses.
5. Local streets are any streets within the city that are not designated as arterials, collectors, neighborhood routes or identified as commercial/industrial streets. These streets have the sole function of providing access to immediately adjacent land.

Parking Space Requirement. The minimum off-street vehicle parking requirement as stated in the minimum and maximum off-street vehicle and bicycle parking requirements in Tigard

Community Development Code Chapter 18.765, updated in February 2014.

Pavement Management Program (PMP). An annual program of corrective and preventative maintenance on City of Tigard streets funded by the street maintenance fee (SMF). The program helps to extend the life of the pavement structure by various means such as, pavement overlaying, slurry sealing, or complete removal and replacement of asphalt.

Occupied Unit. Any structure or any portion of any structure occupied for residential, commercial, industrial, or other purposes. For example, in a multifamily residential development, each dwelling unit shall be considered a separate occupied unit when occupied, and each retail outlet in a shopping mall shall be considered a separate occupied unit. An occupied unit may include more than one structure if all structures are part of the same dwelling unit or commercial or industrial operation. For example an industrial site with several structures that form an integrated manufacturing process operated by a single manufacturer constitutes one occupied unit. Property that is undeveloped or, if developed, is not in current use is not considered an occupied unit.

Responsible Party. The person or persons who by occupancy or contractual arrangement are responsible to pay for utility and other services provided to an occupied unit. Unless another party has agreed in writing to pay and a copy of the writing is filed with the city, the person(s) paying the city's water and/or sewer bill for an occupied unit shall be deemed the responsible party as to that occupied unit. For any occupied unit not otherwise required to pay a city utility bill, "responsible party" shall mean the person or persons legally entitled to occupancy of the occupied unit, unless another responsible party has agreed in writing to pay and a copy of the writing is filed with the city. Any person who has agreed in writing to pay is considered the responsible person if a copy of the writing is filed with the city.

Street Maintenance. Any action to maintain city streets, including repair, renewal, resurfacing, replacement and reconstruction. Street maintenance does not include the construction of new streets or street lighting. Street maintenance shall include resurfacing of existing streets, repair or replacement of curb and gutter where they exist, repair or replacement of the entire existing street structural section, repair or replacement of existing street shoulders, pavement markers, striping and other street markings, repair or replacement of existing channelization devices, adjustment of existing utilities to match finish grades, other work that is required by law to be done in conjunction with street maintenance (such as curb ramp retrofits in accordance with the Americans with Disabilities Act), and any other related work within the existing streets. It includes repair or restoration of existing storm drainage systems within existing streets, but does not include installation of new drainage systems. It includes right-of-way maintenance on the city's arterial and collector streets, and on Pacific Highway within the city limits, which covers maintenance and enhancement of planting strips, medians and areas between sidewalks and property lines on these street to prevent the uncontrolled growth of weeds and other undesirable vegetation in these areas. It does not include repair or replacement of existing sidewalks except where work is required by law to be done in conjunction with street maintenance.

(Ord. 10-01 §2; Ord. 16-07 §1)

§ 15.20.030. Administrative Officers Designated.

- A. Except as provided in subsections B and C of this section, the public works director shall be responsible for the administration of this chapter. The public works director shall be responsible for developing administrative procedures for the chapter, administration of fees, and for the purposes of establishing the fee for a specific occupied unit, the consideration and assignment of categories of use, and parking space requirements subject

to appeal in accordance with this chapter.

- B. The public works director shall be responsible for developing and maintaining street maintenance programs for the maintenance of city streets and, subject to city budget committee review and city council approval, allocation and expenditure of budget resources for street system maintenance in accordance with this chapter.
- C. The finance director shall be responsible for the collection and calculation of fees and the appeals process under this chapter.

(Ord. 10-01 §2)

§ 15.20.040. Street Maintenance Fees Allocated to the Street Maintenance Fee Fund.

- A. All street maintenance fees received shall be deposited to the street maintenance fee fund or other fund dedicated to the operation and maintenance of the city street system. The street maintenance fee fund shall be used for street maintenance. Other revenue sources may also be used for street maintenance. Amounts in the street maintenance fee fund may be invested by the finance director in accordance with state law. Earnings from such investments shall be dedicated to the street maintenance fee fund.
- B. The street maintenance fee fund shall not be used for other governmental or proprietary purposes of the city, except to pay for an equitable share of the city's overhead costs including accounting, management and other costs related to management and operation of the street maintenance program. Engineering design, pavement evaluation, construction management, and other related costs, including project advertisements for bid, in the implementation of the street maintenance projects shall also be considered as being used for street maintenance.

(Ord. 10-01 §2)

§ 15.20.050. Determination of Street Maintenance Fee.

- A. The street maintenance fee shall be established based on the following:
 - 1. The city's five-year maintenance and reconstruction plan for corrective and preventative maintenance of the city's street infrastructure.
 - 2. The average annual cost based on the five-year maintenance and reconstruction plan with costs allocated as follows:
 - a. Arterial maintenance costs allocated 62% to nonresidential uses and 38% to residential uses.
 - b. Local commercial/industrial street maintenance costs allocated 100% to nonresidential uses.
 - c. Collector maintenance costs allocated 50% to residential uses and 50% to nonresidential uses.
 - d. Neighborhood routes and local street maintenance costs allocated 100% to residential uses.
 - 3. For residential property, the fee shall be charged on a per unit basis.

4. For nonresidential property other than gasoline stations, the fee shall be based on the minimum number of vehicle parking spaces as stated in the minimum and maximum off-street vehicle and bicycle parking requirements in the Tigard Community Development Code for each occupied unit.
 - a. Nonresidential property with fewer than six required spaces shall constitute a tier with a 50% reduction of the total fee amount.
 - b. In recognition that religious institutions have minimum parking space requirements that are relatively large in comparison to the actual use of those spaces, the total fee for each religious institution shall be reduced by 50%.
 5. The street maintenance fee for gasoline stations shall be based on the number of fueling positions.
- B. The street maintenance fee rates shall be established by council resolution.
- C. The street maintenance fee will be adjusted according to an annual index.
1. The index is defined in the city's master fees and charges schedule.
 2. A floor of two percent and a ceiling of seven percent has been established.
- D. The program shall be reviewed annually as part of the city's budget process.
- E. Following each review of the program, the finance director shall review the revenue received from the new rates after a full year of collection to determine if the annual revenues meet the annual funding level set from the updated five-year street maintenance plan. The finance director shall report the findings of that review to city council and may make recommendations on any potential fee increases or decreases based on that review. Any unspent funds will be placed in a reserve fund.

(Ord. 10-01 §2; Ord. 13-06 §1; Ord. 16-07 §1)

§ 15.20.060. Determination of Amount, Billing and Collection of Fee.

- A. For the purpose of establishing the fee, the minimum required number of parking spaces or the number of fueling positions for each occupied unit of nonresidential property shall be determined by the public works director. For uses not explicitly listed in the Tigard Development Code as to required parking, the public works director shall assign the use to the similar category with the most similar impact on the transportation system, considering relevant information such as:
1. The size of the site and the building;
 2. The number of employees;
 3. Other developed sites with similar use.
- B. The public works director shall establish the amount of street maintenance fee payable for each unit of nonresidential property and shall inform the finance director of the amount. The amount payable shall be re-determined if there is a change in use or development. All redeterminations based on a change in use or development shall be prospective only. The finance director shall charge the per-unit street maintenance fee to the responsible party for each occupied unit of residential property.

- C. The street maintenance fee shall be billed to and collected from the responsible party for each occupied unit. Billings shall be included as part of the water and sewer bill for occupied units utilizing city water and/or sewer, and billed and collected separately for those occupied units not utilizing city water and/or sewer. All such bills shall be rendered regularly by the finance director and shall become due and payable upon receipt.
- D. Collections from utility customers will be applied first to interest and penalties, then proportionately among the various charges for utility services and street maintenance.
- E. An account is delinquent if the street maintenance fee is not paid by the due date shown on the utility bill. The city may follow the procedures for collection of delinquent accounts set forth in Sections 12.03.030 and/or 12.03.040, including termination of water and/or sanitary sewer service.

(Ord. 10-01 §2)

§ 15.20.070. Waiver of Fees in Case of Vacancy.

- A. When any developed property within the city becomes vacant as described in subsection F of this section, upon written application and approval by the finance director, the street maintenance fee shall thereafter not be billed and shall not be a charge against the property until such time as the property is no longer vacant.
- B. The finance director is authorized to cause an investigation of any property for which an application for determination of vacancy is submitted to verify any of the information contained in the application. The finance director is further authorized to develop and use a standard form of application, provided it shall contain a space for verification of the information and the person signing such form affirms under penalty for false swearing the accuracy of the information provided therein.
- C. When any developed property within the city has the utilities shut-off due to vacancy, the street maintenance fee shall be waived for the duration of the vacancy as described in subsection F of this section.
- D. When any multi-occupied developed property within the city has one or more vacancies as described in subsection F of this section, the responsible party may request, in writing, a waiver of a portion of the street maintenance fee applicable to the vacant units.
- E. When a change of use occurs, a vacancy has been filled, or a property is developed, it is the responsible party's responsibility to inform the city of any change so the proper street maintenance fees may be assessed. If the responsible party does not inform the city of any change, the city shall cancel the vacancy waiver and charge the responsible party as per subsection F of this section.
- F. For purposes of this section, a unit of property is vacant when it has been continuously unoccupied and unused for at least 30 days. Fees shall be waived in accordance with this section only while the property remains vacant. The waiver duration is for six months. After six months, the responsible party must re-apply for the waiver if the property continues to be unoccupied and unused. The responsible party has 30 days to re-apply for the vacancy waiver after the expiration of the six month waiver. Any occupancy or use of the property terminates the waiver. As a penalty for not reporting a change in property vacancy, the city may charge any property two times the appropriate street maintenance fee, that would have been due without the vacancy waiver for prior billing periods, upon

determining by whatever means that the property did not qualify for waiver of charges during the relevant time. The decision of the finance director under subsections A, B and F of this section shall be final.

(Ord. 10-01 §2; Ord. 10-08 §1)

§ 15.20.080. Administrative Provisions and Appeals.

- A. The public works director shall have the initial authority and responsibility to interpret all terms, provisions and requirements of this chapter and to determine the appropriate charges thereunder. The responsible party for an occupied unit may request reconsideration of the public works director's determination of the amount of the fee by submission of a written application to the public works director. The application shall be submitted in sufficient detail to enable the public works director to render a decision.
- B. Within 30 days of the submission of a complete application requesting reconsideration of the amount of the street maintenance fee to be charged to an occupied unit, the public works director shall render a decision on the application. The decision shall be written and shall include findings of fact and conclusions for the particular aspects of the decision, based upon applicable criteria, which may include a land use decision that modifies the minimum required vehicle parking for an occupied unit. A copy of the decision shall be mailed to the person submitting the request. The public works director shall maintain a collection of such decisions. Decisions of the public works director, which affect the amount of fee to be charged to a property, shall be forwarded to the finance director. Except as provided under subsection D of this section, the decision of the public works director is final.
- C. For the purpose of reviewing the fee, the public works director may determine that the land use category is proper and that the fee charged is appropriate. However, if the decision of the public works director results in a change in the category of land use, the public works director shall, for the purpose of establishing the fee, assign a new use category, determine the appropriate fee for the category, and notify the finance director so that the appropriate change may be made in the applicable fee to be charged in the future. No back charges or refunds are required. The decision of the public works director, under this subsection C only, may be appealed.
- D. Council may form a subcommittee consisting of two council members, or appoint a committee of disinterested citizens, hereinafter known as the appeal committee, to address any appeals to the public works director's decisions. A responsible party who disputes the determination of the public works director as to use category or number of required parking spaces may file a written appeal with the appeal committee. All appeals must be submitted within 10 days from the date of the public works director's decision, together with a filing fee in an amount set by council by resolution. The application for appeal shall specify the reasons for the appeal and shall provide sufficient information for the appeal committee to render a decision. No other appeals shall be permitted.
- E. The appeal committee shall schedule a review of each appeal and shall notify the appellant not less than 10 days prior thereto of the date of such review. The appeal committee shall conduct a hearing to determine whether there is substantial evidence in the record to support the interpretation given by the public works director and may continue the hearing for purposes of gathering additional information bearing on the issue. The appeal committee shall render an initial oral decision and shall adopt a final written decision together with appropriate findings in support thereof. The decision of the appeal committee

shall be for the purpose of establishing the fee and limited to whether the appellant has been assigned to the appropriate use category, or whether the appropriate minimum vehicle parking space requirement or number of fueling positions has been correctly identified. If the appeal committee should determine that for the purpose of establishing the fee, a different use category should be assigned, or that the minimum parking space requirement should be revised, it shall so order, provided no refund of prior street maintenance fees shall be given. Only where the committee decision results in a change in use category and/or change in the minimum parking space requirement will the filing fee on the appeal be refunded. The appeal committee decision shall be final.

(Ord. 10-01 §2)

§ 15.20.090. Administrative Policies.

- A. The following policies shall apply to the operation and scope of this chapter:
 1. Street maintenance fees imposed under this chapter shall apply to all occupied units, occupied units owned and/or occupied by local, state and federal governments, as well as property which may be entitled to exemption from or deferral of ad valorem property taxation.
 2. Publicly owned park land, open spaces and greenways shall not be subject to the street maintenance fee unless public off-street parking designed to accommodate the use of such areas is provided.
 3. Areas used for commercial farming or forestry operations shall be billed according to the use of any structures on the site. Where a site is used exclusively for farming or forestry and not for residential or commercial uses, the site shall not be subject to the street maintenance fee. Where there are different seasonal uses of structures on farm or forest land, the use category shall be determined by examining the use for the longest portion of the year. Where more than one use is made of a farming or forestry site, then each use shall be examined separately and combination of use categories shall be used to determine the street maintenance fee.
 4. Areas encompassing railroad and public right-of-way shall not be subject to the street maintenance fee.
 5. Railroad property containing structures, such as maintenance areas, non-rolling storage areas and areas used for the transfer of rail transported goods to non-rail transport shall be subject to street maintenance fees.
 6. For newly developed properties, the fees imposed under this chapter shall become due and payable from and after the date when the developed property is occupied and connected to the public water or sanitary sewer system.
- B. The public works director is authorized and directed to review the operation of this chapter and, where appropriate, recommend changes thereto in the form of administrative policies for adoption of the city council by resolution. Administrative policies are intended to provide guidance to property owners, subject to this chapter, as to its meaning or operation, consistent with policies expressed herein. Policies adopted by the council shall be given full force and effect, and unless clearly inconsistent with this chapter shall apply uniformly throughout the city.

- C. If an occupied unit of nonresidential property is used for more than one use with different minimum parking requirements, the street maintenance fee shall be based on the required parking for the total of the various uses.
- D. The determination or assignment of a use category and minimum number of parking spaces under the provisions of this chapter are strictly for the purpose of establishing a fee and are not statutory land use decisions.

(Ord. 10-01 §2)

§ 15.20.100. Penalty.

In addition to any other remedy, violation of any provision of this chapter shall be a Class A civil infraction. Each day of delinquency in paying the street maintenance fee constitutes a separate violation.

(Ord. 10-01 §2)

§ 15.20.110. Severability.

- A. In the event any section, subsection, paragraph, sentence or phrase of this chapter or any administrative policy adopted herein is determined by a court of competent jurisdiction to be invalid or unenforceable, the validity of the remainder of the chapter shall continue to be effective. If a court of competent jurisdiction determines that this chapter imposes a tax or charge, which is therefore unlawful as to certain but not all affected properties, then as to those certain properties, an exception or exceptions from the imposition of the street maintenance fee shall thereby be created and the remainder of the chapter and the fees imposed thereunder shall continue to apply to the remaining properties without interruption.
- B. Nothing contained herein shall be construed as limiting the city's authority to levy special assessments in connection with public improvements pursuant to applicable law.

(Ord. 03-10)

(RESERVED)

Title 16

(RESERVED)

Title 17

(RESERVED)

Title 18**DEVELOPMENT CODE**

Part 18.00 INTRODUCTION	§ 18.40.060.	Lot Width, Lot Frontage, and Segmented Lot Lines.
Chapter 18.10 LEGAL FRAMEWORK	§ 18.40.070.	Setbacks.
§ 18.10.010. Purpose.	§ 18.40.080.	Flag Lots.
§ 18.10.020. Official Names.	§ 18.40.090.	Tree Diameter.
§ 18.10.030. General Provisions.	§ 18.40.100.	Floor Area.
§ 18.10.040. Consistency with Other Regulations.	§ 18.40.110.	Floor Area Ratio.
§ 18.10.050. Zoning.	§ 18.40.120.	Detached Accessory Dwelling Units.
§ 18.10.060. Special Designations.	§ 18.40.130.	Residential Density.
§ 18.40.140.	§ 18.40.150.	Window Area.
§ 18.40.150.		Parking Lots.
Chapter 18.20 ADMINISTRATION AND ENFORCEMENT		Chapter 18.50 NONCONFORMING CIRCUMSTANCES
§ 18.20.010. Compliance.	§ 18.50.010.	Purpose.
§ 18.20.020. Uses and Development Allowed By Right.	§ 18.50.020.	General Provisions.
§ 18.20.030. Land Use Applications and Development Permits.	§ 18.50.030.	Determination of Nonconforming Use Status.
§ 18.20.040. Violations.	§ 18.50.040.	Criteria for Nonconforming Situations.
§ 18.20.050. Timeliness of Regulations.	§ 18.50.050.	Repairs and Maintenance.
Chapter 18.30 DEFINITIONS		Chapter 18.60 USE CATEGORIES
§ 18.30.010. List of Terms.	§ 18.60.010.	Purpose.
§ 18.30.020. Definitions.	§ 18.60.020.	Classification of Uses.
Chapter 18.40 MEASUREMENTS	§ 18.60.030.	Unlisted Uses.
§ 18.40.010. Purpose.	§ 18.60.040.	Residential Use Category.
§ 18.40.020. Net Development Area.	§ 18.60.050.	Civic Use Categories.
§ 18.40.030. Distances.	§ 18.60.060.	Commercial Use Categories.
§ 18.40.040. Building Height.	§ 18.60.070.	Industrial Use Categories.
§ 18.40.050. Building Facade Area.	§ 18.60.080.	Other Use Categories.
		Part 18.100 BASE ZONES

Chapter 18.110
RESIDENTIAL ZONES

- § 18.110.010. Purpose.
- § 18.110.020. List of Base Zones.
- § 18.110.030. Land Use Standards.
- § 18.110.040. Housing Types.

Chapter 18.120
COMMERCIAL ZONES

- § 18.120.010. Purpose.
- § 18.120.020. List of Base Zones.
- § 18.120.030. Land Use Standards.
- § 18.120.040. Land Use Restrictions.
- § 18.120.050. Housing Types.

Chapter 18.130
INDUSTRIAL ZONES

- § 18.130.010. Purpose.
- § 18.130.020. List of Base Zones.
- § 18.130.030. Land Use Standards.
- § 18.130.040. Land Use Restrictions.

Chapter 18.140
PARKS AND RECREATION ZONE

- § 18.140.010. Purpose.
- § 18.140.020. Applicability.
- § 18.140.030. Other Zoning Regulations.
- § 18.140.040. Land Use Standards.
- § 18.140.050. Development Standards.

Part 18.200
RESIDENTIAL DEVELOPMENT
STANDARDS

- Chapter 18.210
RESIDENTIAL GENERAL PROVISIONS
- § 18.210.010. Purpose.
 - § 18.210.020. Fence and Wall Standards.
 - § 18.210.030. Exceptions to Setback and Height Standards.

Chapter 18.220
ACCESSORY DWELLING UNITS

- § 18.220.010. Purpose.
- § 18.220.020. Applicability.
- § 18.220.030. Compliance.
- § 18.220.040. Standards.

Chapter 18.230
APARTMENTS

- § 18.230.010. Purpose.
- § 18.230.020. Applicability.
- § 18.230.030. Application Type.
- § 18.230.040. Development Standards.
- § 18.230.050. Design Standards.
- § 18.230.060. Accessory Structures.

Chapter 18.240
COTTAGE CLUSTERS

- § 18.240.010. Purpose.
- § 18.240.020. Applicability.
- § 18.240.030. Review Process.
- § 18.240.040. General Provisions.
- § 18.240.050. Clear and Objective Standards.
- § 18.240.060. Alternative Standards.
- § 18.240.070. Pre-existing Dwelling Units.
- § 18.240.080. Accessory Structures.

Chapter 18.250
COURTYARD UNITS

- § 18.250.010. Purpose.
- § 18.250.020. Applicability.
- § 18.250.030. Review Process.
- § 18.250.040. General Provisions.
- § 18.250.050. Clear and Objective Standards.
- § 18.250.060. Alternative Standards.
- § 18.250.070. Accessory Structures.

Chapter 18.260
MOBILE HOME PARKS

- § 18.260.010.** Purpose.
- § 18.260.020.** Applicability.
- § 18.260.030.** Application Type.
- § 18.260.040.** Mobile Home Park Standards.

Chapter 18.270
QUADS

- § 18.270.010.** Purpose.
- § 18.270.020.** Applicability.
- § 18.270.030.** Compliance.
- § 18.270.040.** Clear and Objective Standards.
- § 18.270.050.** Accessory Structures.

Chapter 18.280
ROWHOUSES

- § 18.280.010.** Purpose.
- § 18.280.020.** Applicability.
- § 18.280.030.** Compliance.
- § 18.280.040.** Clear and Objective Standards.
- § 18.280.050.** Accessory Structures.

Chapter 18.290
SMALL FORM RESIDENTIAL

- § 18.290.010.** Purpose.
- § 18.290.020.** Applicability.
- § 18.290.030.** Compliance.
- § 18.290.040.** Clear and Objective Standards.
- § 18.290.050.** Accessory Structures.

Part 18.300
NONRESIDENTIAL DEVELOPMENT STANDARDS

Chapter 18.310
NONRESIDENTIAL GENERAL PROVISIONS

- § 18.310.010.** Purpose.
- § 18.310.020.** Fence and Wall Standards.
- § 18.310.030.** Exceptions to Setback, Height, and Parking Standards.

Chapter 18.320
COMMERCIAL ZONE DEVELOPMENT STANDARDS

- § 18.320.010.** Purpose and Definition.
- § 18.320.020.** Applicability.
- § 18.320.030.** Application Type.
- § 18.320.040.** Development Standards.
- § 18.320.050.** Design Standards.
- § 18.320.060.** Additional Standards for C-N, C-C, and C-G Zones.
- § 18.320.070.** Additional Standards for Adult Entertainment Uses.

Chapter 18.330
INDUSTRIAL ZONE DEVELOPMENT STANDARDS

- § 18.330.010.** Purpose and Definition.
- § 18.330.020.** Applicability.
- § 18.330.030.** Application Type.
- § 18.330.040.** Development Standards.

Chapter 18.340
PARKS AND RECREATION ZONE DEVELOPMENT STANDARDS [RESERVED]

Chapter 18.350
RESIDENTIAL ZONE DEVELOPMENT STANDARDS

- § 18.350.010.** Purpose and Definition.
- § 18.350.020.** Applicability.
- § 18.350.030.** Application Type.
- § 18.350.040.** Development Standards.

§ 18.350.050. Design Standards.

**Part 18.400
SUPPLEMENTAL DEVELOPMENT
STANDARDS**

**Chapter 18.410
OFF-STREET PARKING AND LOADING**

§ 18.410.010. Purpose.

§ 18.410.020. Applicability.

**§ 18.410.030. Vehicle Parking and
Loading Standards.**

**§ 18.410.040. Parking Structure
Standards.**

§ 18.410.050. Bicycle Parking Standards.

**§ 18.410.060. Vehicle and Bicycle Parking
Quantity Standards.**

§ 18.435.015. Definitions.

§ 18.435.020. Permits.

§ 18.435.030. Approval Process.

§ 18.435.040. Approval Period.

§ 18.435.050. Inspections.

§ 18.435.060. Permit Exempt Signs.

§ 18.435.070. Prohibited Signs.

§ 18.435.080. Sign Illumination.

§ 18.435.085. Sign Measurement.

§ 18.435.090. Special Condition Signs.

§ 18.435.100. Temporary Signs.

§ 18.435.110. Nonconforming Signs.

**§ 18.435.120. Removal of Nonconforming
or Abandoned Signs.**

§ 18.435.130. Base Zone Regulations.

Chapter 18.440

TEMPORARY USES

§ 18.440.010. Purpose.

§ 18.440.020. Applicability.

§ 18.440.030. Types of Temporary Uses.

§ 18.440.040. Approval Process.

§ 18.440.050. Approval Criteria.

Chapter 18.450

**WIRELESS COMMUNICATION
FACILITIES**

§ 18.450.010. Purpose.

§ 18.450.020. Exemptions.

§ 18.450.030. Uses Allowed.

**§ 18.450.040. Uses Allowed Subject to Site
Development Review.**

**§ 18.450.050. Uses Allowed Subject to
Conditional Use Review.**

§ 18.450.060. Collocation Protocol.

§ 18.450.070. Abandoned Facilities.

**Chapter 18.430
MARIJUANA FACILITIES**

§ 18.430.010. Purpose.

§ 18.430.020. Applicability.

**§ 18.430.030. Approval Process and
Documentation.**

§ 18.430.040. Approval Criteria.

§ 18.430.050. Development Standards.

**Chapter 18.435
SIGNS**

§ 18.435.010. Purpose.

**§ 18.435.012. Effective Date of this
Chapter.**

Part 18.500

SPECIAL DESIGNATIONS

<p style="text-align: center;">Chapter 18.510 SENSITIVE LANDS</p> <p>§ 18.510.010. Purpose.</p> <p>§ 18.510.020. Applicability.</p> <p>§ 18.510.030. Administrative Provisions.</p> <p>§ 18.510.040. Reserved.</p> <p>§ 18.510.050. General Provisions for Wetlands.</p> <p>§ 18.510.060. Approval Period and Extensions.</p> <p>§ 18.510.070. Sensitive Lands Applications.</p> <p>§ 18.510.080. Special Provisions within Locally Significant Wetlands and Along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek.</p> <p>§ 18.510.090. Density Transfer and Reductions.</p> <p>§ 18.510.100. Plan Amendment Option.</p> <p>§ 18.510.110. Significant Habitat Areas Map Verification Procedures.</p>	<p>§ 18.610.040. Approval Process.</p> <p>§ 18.610.050. Approval Criteria.</p> <p>§ 18.610.060. Review.</p> <p>§ 18.610.070. Plan District Maps.</p> <p style="text-align: center;">Chapter 18.620 BRIDGEPORT VILLAGE PLAN DISTRICT</p> <p>§ 18.620.010. Purpose.</p> <p>§ 18.620.020. Applicability.</p> <p>§ 18.620.030. Uses.</p> <p>§ 18.620.040. Development Standards.</p> <p>§ 18.620.050. Signs.</p> <p>§ 18.620.060. Access.</p> <p>§ 18.620.070. Design Standards.</p> <p>§ 18.620.080. Design Compatibility Standards.</p> <p style="text-align: center;">Chapter 18.630 DURHAM ADVANCED WASTEWATER TREATMENT FACILITY PLAN DISTRICT</p> <p>§ 18.630.010. Purpose.</p> <p>§ 18.630.020. Applicability.</p> <p>§ 18.630.030. Uses.</p> <p>§ 18.630.040. Development Standards.</p> <p>§ 18.630.050. Landscaping and Screening Standards.</p> <p>§ 18.630.060. Connectivity Standards.</p> <p>§ 18.630.070. Off-Site Impact Standards.</p> <p>§ 18.630.080. Discretionary Review.</p> <p>§ 18.630.090. Additional Standards for Conditional Uses Within the Administrative Subdistrict.</p> <p>§ 18.630.100. Temporary Off-Site Impact Permit.</p> <p style="text-align: center;">Chapter 18.640 RIVER TERRACE PLAN DISTRICT</p> <p>§ 18.640.010. Purpose.</p> <p>§ 18.640.020. Applicability.</p>
<p style="text-align: center;">Chapter 18.520 SIGNIFICANT TREE GROVES</p> <p>§ 18.520.010. Purpose.</p> <p>§ 18.520.020. Applicability.</p> <p>§ 18.520.030. General Provisions.</p> <p>§ 18.520.040. Approval Process.</p> <p>§ 18.520.050. Approval Criteria.</p> <p>§ 18.520.060. Flexible Standards.</p>	
<p style="text-align: center;">Part 18.600 PLAN DISTRICTS</p> <p style="text-align: center;">Chapter 18.610 PLAN DISTRICTS</p> <p>§ 18.610.010. Purpose.</p> <p>§ 18.610.020. Scope of Plan Districts.</p> <p>§ 18.610.030. Relationship to Other Regulations.</p>	

- § 18.640.030. Provision of Adequate Public Facilities.
- § 18.640.040. Approval Criteria.
- § 18.640.050. Commercial Development Standards.
- § 18.640.060. River Terrace Boulevard Development Standards.
- § 18.640.070. Planned Developments.
- § 18.640.080. Street Design.
- § 18.640.090. Street Connectivity.
- § 18.640.100. On-Street Parking.
- § 18.640.110. Temporary Sales Offices and Model Homes.

Chapter 18.650

TIGARD DOWNTOWN PLAN DISTRICT

- § 18.650.010. Purpose.
- § 18.650.020. Applicability.
- § 18.650.030. Approval Process.
- § 18.650.040. Approval Criteria.
- § 18.650.050. Development Standards.
- § 18.650.060. Design Standards.
- § 18.650.070. Transportation Connectivity.
- § 18.650.080. Specific Adjustments.

Chapter 18.660

TIGARD TRIANGLE PLAN DISTRICT

- § 18.660.010. Purpose.
- § 18.660.020. Applicability.
- § 18.660.030. General Provisions.
- § 18.660.040. Review Process.
- § 18.660.050. Pre-Existing Development and Approvals.
- § 18.660.060. Land Use Standards.
- § 18.660.070. Site Design Standards.
- § 18.660.080. Building Design Standards.
- § 18.660.090. Transportation Facility Standards.
- § 18.660.100. Sign Standards.

Chapter 18.670
WASHINGTON SQUARE REGIONAL CENTER PLAN DISTRICT

- § 18.670.010. Purpose.
- § 18.670.020. Applicability.
- § 18.670.025. Application Type and Approval Criteria for Motor Vehicle Sales/Rental Uses.
- § 18.670.030. Uses.
- § 18.670.040. Development Standards.
- § 18.670.050. Pre-Existing Uses and Developments.
- § 18.670.060. Street Connectivity.
- § 18.670.070. Site Design Standards.
- § 18.670.080. Building Design Standards.
- § 18.670.090. Signs.
- § 18.670.100. Street and Accessway Standards.

**Part 18.700
LAND USE APPLICATIONS AND REVIEW TYPES**

Chapter 18.710
LAND USE REVIEW PROCEDURES

- § 18.710.010. Purpose.
- § 18.710.020. Summary of Land Use Applications.
- § 18.710.030. General Provisions.
- § 18.710.040. Types of Reviews.
- § 18.710.050. Type I Procedure.
- § 18.710.060. Type II Procedure.
- § 18.710.070. Type II-Modified Procedure.
- § 18.710.080. Type III Procedure.
- § 18.710.090. Type III-Modified Procedure.
- § 18.710.100. Appeals.
- § 18.710.110. Quasi-Judicial Hearings.
- § 18.710.120. Legislative Procedure.
- § 18.710.130. Special Procedures.

Chapter 18.715
ADJUSTMENTS

- § 18.715.010.** Purpose.
- § 18.715.020.** Applicability.
- § 18.715.030.** General Provisions.
- § 18.715.040.** Approval Process.
- § 18.715.050.** Approval Criteria.

Chapter 18.720
ANNEXATIONS

- § 18.720.010.** Purpose.
- § 18.720.020.** Approval Process.
- § 18.720.030.** Approval Criteria.

Chapter 18.730
DIRECTOR DETERMINATIONS

- § 18.730.010.** Purpose.
- § 18.730.020.** Applicability.
- § 18.730.030.** General Provisions.
- § 18.730.040.** Approval Process.
- § 18.730.050.** Approval Criteria.

Chapter 18.740
CONDITIONAL USES

- § 18.740.010.** Purpose.
- § 18.740.020.** Applicability.
- § 18.740.030.** General Provisions.
- § 18.740.040.** Approval Process.
- § 18.740.050.** Approval Criteria.
- § 18.740.060.** Conditions of Approval.
- § 18.740.070.** Pre-Existing Conditional Uses.
- § 18.740.080.** Discontinuation of Existing Conditional Uses.

Chapter 18.745
EXTENSIONS

- § 18.745.010.** Purpose.
- § 18.745.020.** Applicability.
- § 18.745.030.** General Provisions.

- § 18.745.040.** Approval Process.
- § 18.745.050.** Approval Criteria.

Chapter 18.750
HISTORIC RESOURCES

- § 18.750.010.** Purpose.
- § 18.750.020.** Applicability.
- § 18.750.030.** General Provisions.
- § 18.750.040.** Approval Process and Approval Criteria.

Chapter 18.760
HOME OCCUPATIONS

- § 18.760.010.** Purpose.
- § 18.760.020.** Applicability.
- § 18.760.030.** Approval Process.
- § 18.760.040.** Approval Criteria.
- § 18.760.050.** General Provisions.
- § 18.760.060.** Approval Standards.
- § 18.760.070.** Conditions of Approval.
- § 18.760.080.** Revocation of Home Occupation Permits.
- § 18.760.090.** Nonconforming Home Occupations.

Chapter 18.765
MODIFICATIONS

- § 18.765.010.** Purpose.
- § 18.765.020.** Applicability.
- § 18.765.030.** Review Type Determination.
- § 18.765.040.** General Provisions.
- § 18.765.050.** Allowed Modifications.
- § 18.765.060.** Minor Modifications.
- § 18.765.070.** Major Modifications.

Chapter 18.770
PLANNED DEVELOPMENTS

- § 18.770.010.** Purpose.
- § 18.770.020.** Applicability.
- § 18.770.030.** General Provisions.
- § 18.770.040.** Required Analysis.

- § 18.770.050. Approval Process.**
- § 18.770.060. Approval Criteria.**
- § 18.770.070. Conditions of Approval.**

Chapter 18.780
SITE DEVELOPMENT REVIEWS

- § 18.780.010. Purpose.**
- § 18.780.020. Applicability.**
- § 18.780.030. General Provisions.**
- § 18.780.040. Approval Process.**
- § 18.780.050. Approval Criteria.**

Chapter 18.790
TEXT AND MAP AMENDMENTS

- § 18.790.010. Purpose.**
- § 18.790.020. Legislative Amendments.**
- § 18.790.030. Quasi-Judicial Amendments.**

Part 18.800
LOT CREATION AND MODIFICATION

Chapter 18.805
LOT STANDARDS

- § 18.805.010. Purpose.**
- § 18.805.020. Applicability.**
- § 18.805.030. Residential Lot Standards.**
- § 18.805.040. Nonresidential Lot Standards.**

Chapter 18.810
LOT LINE ADJUSTMENTS AND LOT CONSOLIDATIONS

- § 18.810.010. Purpose.**
- § 18.810.020. Approval Process.**
- § 18.810.030. General Provisions.**
- § 18.810.040. Approval Criteria—Preliminary Plat.**
- § 18.810.050. Recording Lot Line Adjustments and Lot Consolidations.**

Chapter 18.820
LAND PARTITIONS

- § 18.820.010. Purpose.**
- § 18.820.020. General Provisions.**
- § 18.820.030. Approval Process.**
- § 18.820.040. Approval Criteria—Preliminary Plat.**
- § 18.820.050. Final Plat Submittal Requirements.**
- § 18.820.060. City Acceptance of Dedicated Land.**
- § 18.820.070. Recording Partition Plats.**

Chapter 18.830
SUBDIVISIONS

- § 18.830.010. Purpose.**
- § 18.830.020. General Provisions.**
- § 18.830.030. Approval Process.**
- § 18.830.040. Approval Criteria—Preliminary Plat.**
- § 18.830.050. Approval Criteria—Final Plat.**
- § 18.830.060. Bond.**
- § 18.830.070. Filing and Recording.**
- § 18.830.080. Plat Vacations.**

Chapter 18.840
SUBLLOT PLATS

- § 18.840.010. Purpose.**
- § 18.840.020. Applicability.**
- § 18.840.030. General Provisions.**
- § 18.840.040. Approval Process.**
- § 18.840.050. Approval Criteria—Preliminary Sublot Plat.**
- § 18.840.060. Approval Criteria—Final Sublot Plat.**
- § 18.840.070. Bond.**
- § 18.840.080. Filing and Recording.**
- § 18.840.090. Plat Vacations.**

**Part 18.900
STREETS AND UTILITIES**

Chapter 18.910
IMPROVEMENT STANDARDS

- § 18.910.010.** Purpose.
- § 18.910.020.** General Provisions.
- § 18.910.030.** Streets.
- § 18.910.040.** Blocks.
- § 18.910.050.** Easements.
- § 18.910.060.** (Reserved)
- § 18.910.070.** Sidewalks.
- § 18.910.080.** Public Use Areas.
- § 18.910.090.** Sanitary Sewers.
- § 18.910.100.** Storm Drainage.
- § 18.910.110.** Bikeways and Pedestrian Pathways.
- § 18.910.120.** Utilities.
- § 18.910.130.** Cash or Bond Required.
- § 18.910.140.** Monuments—Replacement Required.
- § 18.910.150.** Installation Prerequisite.

§ 18.910.160. (Reserved)

§ 18.910.170. Plan Check.

§ 18.910.180. Notice to City.

§ 18.910.190. City Inspection of Improvements.

§ 18.910.200. Engineer's Written Certification Required.

Chapter 18.920
ACCESS, EGRESS, AND CIRCULATION

- § 18.920.010.** Purpose.
- § 18.920.020.** Applicability.
- § 18.920.030.** General Provisions.

Chapter 18.930
VISION CLEARANCE AREAS

- § 18.930.010.** Purpose.
- § 18.930.020.** Applicability.
- § 18.930.030.** Vision Clearance Requirements.
- § 18.930.040.** Computations.

**Part 18.00
INTRODUCTION**

**CHAPTER 18.10
Legal Framework**

§ 18.10.010. Purpose.

The purpose of the Community Development Code of the City of Tigard is to provide for the health, safety, and general welfare of the public. This title is designed to provide the standards and procedures governing the use and development of land in the corporate limits of the City of Tigard and to implement the goals and policies of the Tigard Comprehensive Plan, including the provision of adequate public facilities. The Tigard Comprehensive Plan is the overarching land use policy document that guides development within the city through the application of this title.
(Ord. 17-22 §2)

§ 18.10.020. Official Names.

The ordinances codified in this title are known as the "Community Development Code of the City of Tigard" or "Title 18 of the Tigard Municipal Code" and will be referred to herein as "this title."

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.10.030. General Provisions.

- A. Applicability. This title applies to all land, uses, and development within the corporate limits of the City of Tigard.
- B. General meanings. All of the terms in this title have their commonly accepted, dictionary meaning unless they are specifically defined in this title. When this title is ambiguous, unclear, or silent, an interpretation may be requested as provided in Chapter 18.730, Director Determinations.
- C. Terms and usage.
 1. All words used in the present tense include the future tense.
 2. All words used in the plural include the singular, and all words used in the singular include the plural unless the context indicates otherwise.
 3. All words used in the masculine gender include the feminine gender.
 4. The words "shall," "will," and "must" indicate mandatory requirements and the word "may" indicates permission or optional items.
 5. The word "allowed" means allowed by right, unless stated otherwise.
 6. The words "may not" mean not allowed.
 7. The word "prohibited" means not allowed, and that an adjustment may not be requested in order to allow an exception to the prohibition.
- D. Text amendments. Amendments to this title may be made as provided in Chapter 18.790,

Text and Map Amendments. The effective date of amendments to this title will be specified in the adopting ordinance.

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

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.10.040. Consistency with Other Regulations.

- A. Municipal code. All references in this title to other city regulations are for informational purposes only, and do not constitute a complete list of such regulations.
- B. Other regulations. All uses and development must comply with all other applicable regional, state, and federal regulations.
1. All references in this title to other regional, state, or federal regulations are for informational purposes only, and do not constitute a complete list of such regulations. Any such references do not imply any responsibility by the city for enforcement of regional, state, or federal regulations.
 2. Notwithstanding any other provision of this title, the Director has the authority to make an interpretation of reasonable accommodations in the application of this title when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit to the extent required by federal or state law. In considering whether an accommodation is reasonable, the Director may consider whether the request puts an undue burden or expense on the city and whether the proposed use creates a fundamental alteration in this title. The Director may ask for, or the applicant may voluntarily submit, additional information based on the requested accommodation, to determine whether the request creates an undue burden or a fundamental alteration. The accommodation may result in a permitted or conditional waiver of any limitation of this title. Determinations of reasonable accommodation are made through a Director determination, as provided in Chapter 18.730, Director Determinations.

- C. References. All references in this title to other city, regional, state, or federal regulations refer to the most current version for those regulations, unless specifically indicated otherwise. Where the referenced regulations have been repealed, such references no longer apply.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 20-01 §1)

§ 18.10.050. Zoning.

- A. Base zones. All land within the City of Tigard is divided into zones. The use and development of land is limited by the base zone in which the land is located. The following base zones are established in the city:

**Table 18.10.1
Base Zones**

Zone Name	Zone Abbreviation
Parks and Recreation	PR
<i>Residential Zones</i>	
Residential-A	RES-A
Residential-B	RES-B
Residential-C	RES-C
Residential-D	RES-D
Residential-E	RES-E
<i>Commercial Zones</i>	
Neighborhood Commercial	C-N
Community Commercial	C-C
General Commercial	C-G
Professional/Administrative Commercial	C-P
Mixed-Use Central Business District	MU-CBD
Mixed-Use Employment	MUE
Mixed-Use Employment	MUE-1
Mixed-Use Employment	MUE-2
Mixed-Use Commercial	MUC
Mixed-Use Commercial	MUC-1
Mixed-Use Residential	MUR-1
Mixed-Use Residential	MUR-2
Triangle Mixed Use	TMU
<i>Industrial Zones</i>	
Industrial Park	I-P
Light Industrial	I-L
Heavy Industrial	I-H

1. The base zones applied to the public rights-of-way within the city, as shown on the zoning map, do not directly regulate the uses or developments that are allowed in these rights-of-way. Public rights-of-way are governed by other regulations maintained by the city or other applicable transportation authorities.
2. Land annexed to the city will be assigned a base zone or zones as provided in Chapter 18.720, Annexations.
3. When more than one base zone exists on a property, the development standards for each base zone will apply to the portion of the property in that base zone.

- B. Zoning map. The map entitled "Tigard Zoning Map" is the official zoning map and displays the boundaries of each of the base zones provided in Table 18.10.1. The current official zoning map is maintained by the Director. The official zoning map is made a part of this title by reference.
- C. Zone boundary. The exact location of a zone boundary will be determined by the Director where there is uncertainty, contradiction, or conflict as to the zone boundary. Zone boundary determinations will consider the following:
1. Boundaries shown as approximately following the center lines of streets, highways, railroad tracks, or alleys are construed to follow such center lines;
 2. Boundaries shown as approximately following platted lot lines are construed as following such lot lines;
 3. Boundaries shown as approximately following city limits are construed as following city limits; and
 4. Boundaries shown as approximately following a river, stream, or drainage channel are construed as following such river, stream, or drainage channel.
- D. Zoning map amendments. Amendments to the official zoning map may be made as provided in Chapter 18.790, Text and Map Amendments.
- (Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.10.060. Special Designations.

- A. Overlay zones. The following overlays are established in the city:

Table 18.10.2 Overlay Zones		
Overlay Zone Name	Zone Abbreviation	Regulating Chapter
Historic Resource	HR	18.750

1. Overlay zone boundaries are shown on the city's official zoning map and may be located within any base zone.
2. Land within overlay zones is subject to the regulations of the base zone in which it is located and the specific regulations found within each regulating chapter as provided in Table 18.10.2.

- B. Plan districts. The following plan districts are established in the city:

Table 18.10.3 Plan Districts	
Plan District Name	Regulating Chapter
Bridgeport Village	18.620
Durham Advanced Wastewater Treatment Facility	18.630
River Terrace	18.640

**Table 18.10.3
Plan Districts**

Plan District Name	Regulating Chapter
Tigard Downtown	18.650
Tigard Triangle	18.660
Washington Square Regional Center	18.670

1. Plan district boundaries are shown on maps provided within each regulating chapter, as provided in Table 18.10.3.
2. Land within each plan district is subject to regulations of the base zone in which it is located and the specific regulations found within each regulating chapter as provided in Table 18.10.3.

C. Special areas. The following special areas are established in the city:

**Table 18.10.4
Special Areas**

Special Areas	Regulating Chapter
Wetlands	18.510
Significant habitat	18.510
Significant tree groves	18.520

1. Special areas are shown on the following maps:
 - a. Wetlands are shown on the "City of Tigard Wetland and Stream Corridor Map," adopted by reference. Wetlands may be subject to additional regulations, either by the city as provided in Chapter 18.510, Sensitive Lands, or other agencies.
 - b. Significant habitats are shown on the "City of Tigard Significant Habitat Areas Map," adopted by reference. Significant habitat areas are subject to voluntary regulations as provided in Chapter 18.510, Sensitive Lands.
 - c. Significant tree groves are shown on the "City of Tigard Significant Tree Grove Map," adopted by reference. Significant tree groves are subject to voluntary regulations as provided in Chapter 18.520, Significant Tree Groves.
2. Land within each special area is subject to regulations of the base zone in which they are located.
3. Maps depicting special areas are intended for general reference and may not necessarily represent actual boundaries. Verification of special areas may be required upon application for development.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

**CHAPTER 18.20
Administration and Enforcement**

§ 18.20.010. Compliance.

- A. **Compliance.** Uses, developments, and construction, reconstruction, alteration, occupation, and use of structures must conform to the provisions of this title. Any officials, departments, or employees of the city vested with authority to grant approvals must adhere to and require compliance with this title and may not grant approval for any development or use that violates or fails to comply with this title. Any approval issued or granted in conflict with the provisions of this title is void.
- B. **Obligation by successor.** The regulations of this title apply to the person undertaking the development or the use of the development and to the person's successor in interest.
- C. **Most restrictive regulations apply.** Where this title imposes greater restrictions than those imposed or required by other regulations, the most restrictive or that imposing the higher standard governs. When regulations in this title are in conflict, the most restrictive regulation governs unless stated otherwise.
- D. **Required improvements.** A lot area, setback, open space, or off-street parking or loading area required by this title for a development may not be used to meet the requirements for another development, except as specifically provided otherwise.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.20.020. Uses and Development Allowed By Right.

- A. **Compliance.** Proposals for uses or developments that are allowed by right under this title are subject to the procedures and regulations of this section.
- B. **Applicability.**
 - 1. **Applicability.** Uses or development allowed by right are those that do not require a land use approval, as determined by the Director. This determination is not appealable locally and is the final decision of the city.
 - 2. **Prohibitions.**
 - a. Applications for uses or development that are prohibited by this title will not be accepted.
 - b. The Director may refuse an application when a proposed structure has been clearly designed for a use or development different from that which is being proposed and could not reasonably be expected to meet the needs of the proposed use or development.
- C. **Method of review.** Uses and development that are allowed by right are reviewed for compliance with the applicable standards in this title. This is a non-discretionary administrative review. Decisions are made by the Director. The Director's decision is not appealable locally and is the final decision of the city.
- D. **Procedures.**

1. Non-discretionary reviews are processed in conjunction with an application for a development permit. Applicants for non-discretionary review must submit information showing that the proposal complies with all applicable standards of this title.
2. Approvals of non-discretionary reviews are based on the information submitted. If the information is incorrect, the approval may be revoked or voided.

(Ord. 22-06 §2)

§ 18.20.030. Land Use Applications and Development Permits.

- A. Land use applications. An applicant who proposes a use or development that is governed by this title must obtain approval of all required land use applications prior to establishment or construction. New development, changes to existing development, and changes in the type or number of uses may require a land use approval.
- B. Development permits. An applicant who proposes a use or development governed by this title must obtain approval of all required development permits prior to establishment or construction. New development, changes to existing development, and changes in the type or number of uses may require a permit.
- C. Certificate of occupancy. A structure or use may not be used or occupied for the purposes provided in the development permit until the city has issued a certificate of occupancy. Prior to the final completion of all work, a certificate of occupancy may be issued for a portion of the structure conditioned upon further work being completed by a date certain.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.20.040. Violations.

- A. Violations. It is unlawful to violate any provisions of this title including but not limited to provisions relating to a land use approval or conditions of land use approval. Erection, construction, alteration, maintenance, or use of any building or structure in violation of this title; or use, division, or transfer of any land in violation of this title is prohibited. Each violation of a separate provision of this title constitutes a separate infraction, and each day that a violation of this title is committed or continued constitutes a separate infraction.
- B. Responsible party. The responsible party is the person responsible for curing or remedying a violation, which includes:
 1. The owner of the property, or the owner's manager or agent or other person in control of the property on behalf of the owner;
 2. The person occupying the property, including bailee, lessee, tenant, or other person having possession; or
 3. The person who is alleged to have committed the acts or omissions, created or allowed the condition to exist, or placed the object or allowed the object to exist on the property.
- C. Enforcement. In any case where a violation of this title occurs, such violation constitutes a nuisance and a Class I Civil Infraction as provided in Title 6 of the Tigard Municipal Code. The city may remedy the violation by any appropriate means necessary as allowed by the

municipal code and available to the city.
(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.20.050. Timeliness of Regulations.

- A. Vesting. Land use applications are processed based on the regulations in effect on the date an application is submitted to the city as provided in ORS 227.178. If a land use application is approved, development rights are vested when the land use approval is utilized as described in Subsection 18.20.040.G. Vested development rights do not expire unless new land use approvals are obtained and utilized that supersede any preexisting vested rights.
- B. Modifications. Modifications to pending land use applications that have been deemed complete are processed based on the regulations in effect on the date the original application was submitted, unless the modification substantially changes the proposal so as to constitute a new application, as described in Chapter 18.710, Land Use Review Procedures.
- C. Use of new regulations or mapping. Land use applications will not be accepted for development proposals based on proposed amendments to regulations or the zoning map that have not been adopted or have been adopted but are not yet in effect. Pre-application conferences may be requested and held to discuss implications of proposed amendments.
- D. Pre-existing approvals. Land use applications for which approvals were granted prior to the effective date of the ordinances codified in this title may occur in compliance with such approvals.
- E. Conditions of approval. Conditions of land use approval remain valid even if the regulations requiring the conditions are subsequently modified. Conditions of approval may be amended or removed through the following actions:
 - 1. Appeal of the original application;
 - 2. Submittal of a new land use application that supersedes the original application;
 - 3. Submittal of a new land use application that modifies the original application or condition of approval through the process provided by Chapter 18.765, Modifications; or
 - 4. Submittal of a new land use application that modifies the original condition of approval through the process provided by Chapter 18.730, Director Determinations. The Director will approve a modification through this process when one or more of the following criteria are met:
 - a. The condition of approval violates a mandatory federal or state law or regulation; or
 - b. The condition of approval imposes an objective limitation that is no longer required by this title or is more restrictive than required by this title as a result of an amendment to this title.
- F. Transfer of approval rights. Approvals of ministerial and quasi-judicial land use applications run with the land and are transferred with ownership. Any conditions, time limits, or restrictions apply to all subsequent owners.

G. Expiration of approvals.

1. Approvals granted pursuant to this chapter expire and are void unless utilized as described below within the applicable time periods.
 - a. For an approval requiring any kind of development permit, the development must:
 - i. Submit and pay for all applicable development permits, excluding trade permits, within three years of the effective date of a conditional use, planned development (detailed plan), planned development (consolidated plan), or site development review approval, or within two years of the effective date of all other approvals; and
 - ii. Pass final inspection or obtain a permanent certificate of occupancy within five years of the effective date of a conditional use, planned development (detailed plan), planned development (consolidated plan), or site development review approval, or within four years of the effective date of all other approvals.
 - b. For an approval not requiring any kind of development permit, such as a planned development (concept plan) or a preliminary subplot plat, the development must utilize its approval within two years of the effective date of the approval.
2. Approvals expire and are void as specified above unless one of the following applies:
 - a. An extension application is submitted as provided by Chapter 18.745, Extensions. If the extension application is denied, the approval expires on the effective date of the extension decision.
 - b. The expiration date for an approval is specified in another chapter of this title.
3. The following approvals are exempt from expiration:
 - a. Adequate Public Facilities Exceptions,
 - b. Annexations,
 - c. Comprehensive Plan Amendments,
 - d. Development Code Amendments,
 - e. Director Determinations,
 - f. Historic Resource Overlay Zone Designations,
 - g. Nonconforming Use Determinations,
 - h. Zoning Map Amendments, and
 - i. Final Plats, including Final Sublot Plats.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

CHAPTER 18.30

Definitions

§ 18.30.010. List of Terms.

-A-

A-Frame Sign - See Chapter 18.435, Signs

Abandoned Sign - See Chapter 18.435, Signs

Abut

Accept

Access

Accessible

Accessory Structure

Accessory Use

Accessory Dwelling Unit - *See Dwelling-Related Definitions*

Addition

Adult Bookstore - See Adult Entertainment-Related Definitions

Adult Entertainment-Related Definitions:

- Adult Bookstore
 - Adult Motion Picture Theater
 - Specified Anatomical Areas
 - Specified Sexual Activities

Adult Motion Picture Theater - See Adult Entertainment-Related Definitions

Aisle

Allowed Use

Alley - See Transportation-Related Definitions

Alternative Access

Amendment

Amenity

Annexation

Antenna - See Wireless Communication Facility-Related Definitions

Apartments - See Dwelling-Related Definitions

Approval Authority

Approved Plan

Arcade

Area - *See Chapter 18.435, Signs*

Area of Special Flood Hazard - *See Flood-Related Definitions*

Attached - *See Dwelling-Related Definitions*

Awning

Awning Sign - *See Chapter 18.435, Signs*

-B-

Balloon - *See Chapter 18.435, Signs*

Banner - *See Chapter 18.435, Signs*

Base Flood - *See Flood-Related Definitions*

Basement Bay

Belt Course

Bench Sign - *See Chapter 18.435, Signs*

Berm

Bike Lane - *See Transportation-Related Definitions*

Bikeway - *See Transportation-Related Definitions*

Billboard - *See Chapter 18.435, Signs*

Buildable Area

Building

Building, Primary

Building Height

Building Permit

Business

-C-

Caliper - *See Tree-Related Definitions*

Carport

Certified Arborist - *See Tree-Related Definitions*

Change of Use

City

Collocation - *See Wireless Communication Facility-Related Definitions*

Column

Common Wall

Complex

Conditional Use

Corner Lot - *See Lot-Related Definitions*

Cornice

Council

Covered Parking

Cottage Cluster - *See Dwelling-Related Definitions*

Courtyard Units - *See Dwelling-Related Definitions*

Covered Soil Volume - *See Tree-Related Definitions*

Cul-de-Sac

Cultural Institution Auxiliary Sign - *See Chapter 18.435, Signs*

Cutout - *See Chapter 18.435, Signs*

-D-

Dedication

Deed

Demolish

Density

Density Bonus

Density Transfer

Detached - *See Dwelling-Related Definitions*

Development

Development Impact Area - *See Tree-Related Definitions*

Development Permit

Development Site

Diameter at Breast Height (DBH) - *See Tree-Related Definitions*

Directional Sign - *See Chapter 18.435, Signs*

Director

Display Surface - *See Chapter 18.435, Signs*

Drainage Way

Dripline - *See Tree-Related Definitions*

Drive-Through Service

Driveway

Dwelling Unit - *See Dwelling-Related Definitions*

Dwelling Unit-Related Definitions:

- Accessory Dwelling Unit
- Apartments
- Attached
- Cottage Cluster
- Courtyard Units
- Detached
- Dwelling Unit
- Manufactured Home
- Quad
- Rowhouse
- Single Detached House
- Small Form Residential

-E-

Easement

Eaves

Egress

Electronic Information Sign - *See Chapter 18.435, Signs*

Enlargement

Entrance

Entryway Sign - *See Chapter 18.435, Signs*

Exception

-F-

FAA - *See Wireless Communication Facility-Related Definitions*

Face

Face of a Building - *See Chapter 18.435, Signs*

Family Day Care

FCC - *See Wireless Communication Facility-Related Definitions*

Fee in Lieu

Fence, Sight-Obscuring

Final Decision

Findings

Flag Lot - *See Lot-Related Definitions*

Flashing Sign - *See Chapter 18.435, Signs*

Flood or Flooding - *See Flood-Related Definitions*

Flood-Related Definitions:

- Area of Special Flood Hazard
- Base Flood
- Flood or Flooding
- Floodway
- Floodway Fringe
- Special Flood Hazard Area

Floodway - *See Flood-Related Definitions*

Floodway Fringe - *See Flood-Related Definitions*

Floor Area

Floor Area Ratio (FAR)

Flush Pitched Roof Sign - *See Chapter 18.435, Signs*

Freestanding Sign - *See Chapter 18.435, Signs*

Freeway Interchange - *See Chapter 18.435, Signs*

Freeway-Oriented Sign - *See Chapter 18.435, Signs*

Frontage

Front Lot Line - *See Lot-Related Definitions*

-G-

Garage

Garage Setback

Glare

Guyed Tower - *See Wireless Communication Facility-Related Definitions*

-H-

Hazard Tree - *See Tree-Related Definitions*

Hazard Tree Abatement - *See Tree-Related Definitions*

Hazard Tree Owner or Responsible Party - *See Tree-Related Definitions*

Heritage Tree - *See Tree-Related Definitions*

Home Occupation

Homeowners Association

Household

-I-

Immediate or Serious Danger - *See Chapter 18.435, Signs*

Impact Analysis

Impervious Surface

Improvement

Industrial Park - *See Chapter 18.435, Signs*

Ingress

Interior Lot - *See Lot-Related Definitions*

-L-

Land Form Alteration

Landscape Architect

Landscaping

Lattice Tower - *See Wireless Communication Facility-Related Definitions*

Lawn Sign - *See Chapter 18.435, Signs*

Legal Entity

Legislative

Lighting Methods - *See Chapter 18.435, Signs*

Loading Area - *See Loading Space*

Loading Space

Lot - *See Lot-Related Definitions*

Lot Area - *See Lot-Related Definitions*

Lot Averaging - *See Lot-Related Definitions*

Lot Consolidation - *See Lot-Related Definitions*

Lot Coverage - *See Lot-Related Definitions*

Lot Depth - *See Lot-Related Definitions*

Lot Line - *See Lot-Related Definitions*

Lot Line Adjustment - *See Lot-Related Definitions*

Lot of Record - *See Lot-Related Definitions*

Lot-Related Definitions:

- Corner Lot
- Flag Lot
- Front Lot Line
- Interior Lot
- Lot
- Lot Area
- Lot Averaging
- Lot Consolidation
- Lot Coverage
- Lot Depth
- Lot Line
- Lot Line Adjustment
- Lot of Record
- Lot Width
- Rear Lot Line
- Side Lot Line
- Street Side Lot Line
- Sublot Plat
- Tax Lot
- Through Lot

- Tract
- Unit of Land
- Zero Lot Line

Lot Width - *See Lot-Related Definitions*

-M-

Maintenance - *See Chapter 18.435, Signs*

Manufactured Home - *See Dwelling-Related Definitions*

Marijuana

Marijuana Facility

Marquee

Median Tree - *See Tree-Related Definitions*

Mitigation

Mixed-Use Development

Mobile Home

Mobile Home Park

Monopole - *See Wireless Communication Facility-Related Definitions*

Moving Sign - *See Rotating Sign*

-N-

Noise

Nonconforming Circumstance

Nonconforming Sign - *See Chapter 18.435, Signs*

Non-Structural Trim - *See Chapter 18.435, Signs*

Non-Tower - *See Wireless Communication Facility-Related Definitions*

Nuisance Tree - *See Tree-Related Definitions*

-O-

Occupancy Permit

Off-Site Impact

Off-Site Improvement

Open Grown Tree - *See Tree-Related Definitions*

Open Soil Volume - *See Tree-Related Definitions*

Outdoor Storage

Owner

-P-

Painted Wall Decorations - *See Chapter 18.435, Signs*

Painted Wall Highlights - *See Chapter 18.435, Signs*

Painted Wall Sign - *See Chapter 18.435, Signs*

Parapet

Park

Parking Lot

Parking Lot Tree - *See Tree-Related Definitions*

Parking Space

Parking Structure

Partition

Party

Path - *See Transportation-Related Definitions*

Perimeter

Person

Pilaster

Planning Commission

Plat

Premises - *See Chapter 18.435, Signs*

Primary Use

Projecting Sign - *See Chapter 18.435, Signs*

Provider - *See Wireless Communication Facility-Related Definitions*

Public Infrastructure - *See Wireless Communication Facility-Related Definitions*

Public Support Facilities

-Q-

Quad - *See Dwelling-Related Definitions*

Quasi-Judicial

-R-

Reader-Board Sign - *See Chapter 18.435, Signs*

Rear Lot Line - *See Lot-Related Definitions*

Recreational Vehicles

Remodel

Reserve Strip

Residence

Revolving Sign - *See Rotating Sign*

Right-of-Way - *See Transportation-Related Definitions*

Road - *See Transportation-Related Definitions*

Roof

Roof Line - *See Chapter 18.435, Signs*

Roof Sign - *See Chapter 18.435, Signs*

Rotating Sign - *See Chapter 18.435, Signs*

Rowhouse - *See Dwelling-Related Definitions*

-S-

Setback

Shopping Center - *See Chapter 18.435, Signs*

Shopping Plaza - *See Chapter 18.435, Signs*

Side Lot Line - *See Lot-Related Definitions*

Sidewalk - *See Transportation-Related Definitions*

Sign - *See Chapter 18.435, Signs*

Sign Projection - *See Chapter 18.435, Sign*

Sign Structure - *See Chapter 18.435, Signs*

Significant Tree Grove - *See Tree-Related Definitions*

Single Detached House - *See Dwelling-Related Definitions*

Site

Slope

Small Cell - *See Wireless Communication Facility-Related Definitions*

Special Flood Hazard Area - *See Flood-Related Definitions*

Specified Anatomical Areas - *See Adult Entertainment-Related Definitions*

Specified Sexual Activities - *See Adult Entertainment-Related Definitions*

Square Footage

Stand (of Trees) - *See Tree-Related Definitions*

Stand Grown Tree - *See Tree-Related Definitions*

Story

Street - *See Transportation- Related Definitions*

Street Tree - *See Tree-Related Definitions*

Structural Alteration - *See Chapter 18.435, Signs*

Structure

Subdivision

Substantial Improvement

-T-

Tax Lot - *See Lot-Related Definitions*

Temporary Sign - *See Chapter 18.435, Signs*

Temporary Use

Through Lot - *See Lot-Related Definitions*

Tigard-Based Nonprofit Organization

Tiny House - *See Dwelling-Related Definitions*

Tower - *See Wireless Communication Facility-Related Definitions*

Traffic Flow Plan

Tract - *See Lot-Related Definitions*

Trail - *See Transportation-Related Definitions*

Transom

Transportation-Related Definitions:

- Alley
- Bike Lane
- Bikeway

- Path
- Right-of-Way
- Road
- Sidewalk
- Street
- Trail

Tree - *See Tree-Related Definitions*

Tree Canopy - *See Tree-Related Definitions*

Tree Canopy Cover, Effective - *See Tree-Related Definitions*

Tree Care Industry Standards - *See Tree-Related Definitions*

Tree-Related Definitions:

- Caliper
- Certified Arborist
- Covered Soil Volume
- Development Impact Area
- Diameter at Breast Height (DBH)
- Dripline
- Hazard Tree
- Hazard Tree Abatement
- Hazard Tree Owner or Responsible Party
- Heritage Tree
- Median Tree
- Nuisance Tree
- Open Grown Tree
- Open Soil Volume
- Parking Lot Tree
- Significant Tree Grove
- Stand (of Trees)
- Stand Grown Tree
- Street Tree

Tower - *See Wireless Communication Facility-Related Definitions*

Traffic Flow Plan

Tract - *See Lot-Related Definitions*

Trail - *See Transportation-Related Definitions*

Transom

Transportation-Related Definitions:

- Alley
- Bike Lane
- Bikeway
- Path
- Right-of-Way
- Road
- Sidewalk
- Street
- Trail

Tree - *See Tree-Related Definitions*

Tree Canopy - *See Tree-Related Definitions*

Tree Canopy Cover, Effective - *See Tree-Related Definitions*

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- Heritage Tree
- Median Tree
- Nuisance Tree
- Open Grown Tree
- Open Soil Volume
- Parking Lot Tree
- Significant Tree Grove
- Stand (of Trees)
- Stand Grown Tree
- Street Tree

- Tree
- Tree Canopy
- Tree Canopy Cover, Effective
- Tree Care Industry Standards
- Tree Removal
- Tree Risk Assessor
- Understory Tree

Tree Removal - *See Tree-Related Definitions*

Tree Risk Assessor - *See Tree-Related Definitions*

Turret

-U-

Understory Tree - *See Tree-Related Definitions*

Use

-V-

Visible Transmittance

Vision Clearance Area

Visual Obstruction

-W-

Wall Sign - *See Chapter 18.435, Signs*

Wetlands

Window

Wireless Communication Facility - *See Wireless Communication Facility-Related Definitions*

Wireless Communication Facility-Related Definitions:

- Antenna
- Collocation
- FAA
- FCC
- Guyed tower
- Lattice tower
- Monopole
- Non-tower
- Provider

- Public Infrastructure
- Small Cell
- Tower
- Wireless Communication Facility

-Z-

Zero Lot Line - *See Lot-Related Definitions*

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2; Ord. 23-09, 12/12/2023)

§ 18.30.020. Definitions.

As used in this title and corresponding administrative rules, terms, and phrases are defined as provided in this section. For additional definitions, see Chapter 18.60, Use Categories; Chapter 18.435, Signs; and Chapter 18.510, Sensitive Lands.

A. "A" definitions.

"Abut" - Joined by a common boundary line or point. Synonymous with adjacent, adjoining, and contiguous.

"Accept" - To receive as complete and in compliance with all submittal requirements.

"Access" - The place, means, or way by which pedestrians, bicycles, and vehicles enter or leave property. A private access is an access not in public ownership and is controlled by means of deed, dedication, or easement.

"Accessible" - Designed in a manner to ensure access for persons with disabilities, in accordance with all state and federal regulations.

"Accessory structure" - A structure whose use is incidental and subordinate to the primary use of property, is located on the same lot as the primary use, and is freestanding or is joined to the primary structure solely by non-habitable space as defined by the state building code.

"Accessory use" - Uses or activities that are a subordinate part of and clearly incidental to a primary use on site. Developments may have more than one accessory use.

"Addition" - A modification to an existing building or structure that increases its height, square footage, or lot coverage. A structure is considered an addition only when it shares a common wall and is structurally dependent on the primary structure. See also "accessory structure" and "common wall."

Adult entertainment-related definitions:

a. "Adult bookstore" - An establishment having at least 50 percent of its merchandise, items, books, magazines, other publications, films, or videotapes that are for sale, rent, or viewing on the premises and are distinguished or characterized by their emphasis on matters depicting the specified sexual activities or specified anatomical areas defined in this section.

b. "Adult motion picture theater" - An establishment used primarily for the presentation of motion pictures or videotapes having as dominant theme material distinguished

or characterized by an emphasis on matter depicting specified sexual activities or specified anatomical areas defined in this section.

- c. "Specified anatomical areas" - Uncovered or less than opaquely covered, post-pubescent human genitals, pubescent human genitals, pubic areas, post-pubescent human female breasts below a point immediately above the top of the areola, or the covered human male genitals in a discernibly turgid state.
- d. "Specified sexual activities" - Human genitals in a state of sexual stimulation or arousal, acts of masturbation, sexual intercourse, sodomy, flagellation, torture or bondage either real or simulated.

"Aisle" - The corridor by which cars enter and depart parking spaces.

"Allowed use" - Any use allowed in a base zone and subject to the development standards of that base zone.

"Alternative access" - The ability to enter a highway or other public street indirectly through another improved roadway rather than direct driveway entrance from the public right-of-way frontage.

"Amendment" - A change in the wording, context, or substance of this title or the comprehensive plan, or a change in the boundaries of a base zone or overlay zone on the official zoning map or the boundaries of a designation on the comprehensive plan map.

"Amenity" - A natural or created feature that enhances the aesthetic and functional quality, visual appeal, or makes more attractive or satisfying a particular property, place, or area.

"Annexation" - The incorporation of a land area into the City of Tigard with a resulting change in the boundaries of the city.

"Antenna" - A device used to transmit or receive radio or electromagnetic waves between land- or satellite-based structures.

"Approval authority" - Either the Director, the initial hearing body, or the council, depending on the context in which the term is used.

"Approved plan" - A plan that has been granted final approval by the appropriate approval authority.

"Arcade" - An exterior covered passageway along a building facade that is open to the street frontage.

"Awning" - A covered area extending from the wall of a building, usually extending above a sidewalk providing shelter or sunshade.

B. "B" definitions.

"Basement" - Any floor level below the first story in a building that does not meet the definition of a story.

"Bay" - (a) Within a structure, a regularly repeated spatial element defined by beams or ribs and their supports; (b) a protruded structure with a bay window.

"Belt course" - A horizontal band or molding set in the face of a building as a design element (also called a string course).

"Berm" - A mound of earth with sloping sides that is located between areas of

approximately the same elevation, for the purpose of screening for views or sound, providing wind protection, or to provide an elevated planting area.

"Buildable area" - The area of a lot exclusive of the areas required for front, side, and rear setbacks and other required open spaces and that is available for siting and constructing a building or structure.

"Building" - A structure that includes a roof and is intended to provide for the support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

"Building, primary" - A building in which the primary use of a property is conducted.

"Building height" - The exterior vertical measurement of a building. See Section 18.40.040.

"Building permit" - Written permission issued by the proper municipal authority for the construction, repair, alteration, or addition to a structure. Also see "development permit."

"Business" - All of the activities carried on by the same legal entity on the same premises and includes charitable, fraternal, religious, educational, or social organizations.

C. "C" definitions.

"Carport" - A single-story building, or portion thereof, that contains one or more parking spaces for the storage of vehicles or bicycles. A carport does not contain parking aisles for internal maneuvering and circulation and may be partially enclosed.

"Change of use" - Any use that differs from the previous use as provided in Chapter 18.60, Use Categories.

"City" - The area within the territorial limits of the City of Tigard, Oregon.

"Column" - In structures, a relatively long, slender structural compression member such as a post, pillar, or strut; usually vertical, supporting a load that acts in (or near) the direction of its longitudinal axis.

"Common wall" - A wall or joined walls that share a boundary to provide separation of interior spaces.

"Complex" - A structure or group of structures developed on one or more contiguous units of land and developed as part of an overall development plan.

"Conditional use" - A use that may be allowed by the approval authority following a public hearing, upon findings by the authority that the approval criteria have been met or will be met upon satisfaction of conditions of approval.

"Cornice" - Decorative projection or crown along the top of a wall or roof.

"Council" - The City Council of Tigard, Oregon.

"Covered parking" - A single-story building that contains multiple parking spaces for the storage of vehicles or bicycles, or a multi-story building that partially or completely covers one or more parking spaces with the horizontal extension of the second story beyond the vertical walls of the first story. A covered parking area may contain parking aisles for internal maneuvering and circulation and may be partially enclosed.

"Cul-de-sac" - The circular turnaround at the end of a dead-end street.

D. "D" definitions.

"Dedication" - The limited grant by a property owner of property for specified purposes by

the public.

"Deed" - A legal document conveying ownership of real property.

"Demolish" - To raze, destroy, dismantle, deface, or in any other manner cause partial or total ruin of a building or structure.

"Density" - The intensity of residential land uses, usually stated as the number of dwelling units per acre or as the number of buildable lots per acre, in the case of small form residential development. See Section 18.40.130.

"Density bonus" - Additional dwelling units or lots that can be earned as an incentive for providing undeveloped open space, landscaping, or tree canopy as defined further in this title.

"Density transfer" - The transfer of all or part of the required density from one part of a development site to another part.

"Development" - (1) A building or structure; (2) a mining operation; (3) a material change in the use or appearance of a structure or land; or (4) division of land into two or more units of land, including partitions and subdivisions as provided in Oregon Revised Statutes 92.

"Development permit" - Any permit, such as building, site work, or construction of public improvements, issued by the city for actions authorized under this title. Land use approval is required prior to the issuance of development permits for some actions.

"Development site" - A lot or combination of lots upon which one or more buildings or other improvements are constructed.

"Director" - The Director of Community Development for the City of Tigard, Oregon, or designee.

"Drainage way" - Undeveloped land inundated during a 25-year storm with a peak flow of at least five cubic feet per second and conveyed, at least in part, by identifiable channels that either drain to the Tualatin River directly or after flowing through other drainage ways, channels, creeks, or special flood hazard area.

"Drive-through service" - A use or structure that is designed and intended to allow drivers to remain in their vehicles before and during participation in an activity on the site.

"Driveway" - A private way providing ingress and egress from one or two units of land to a public or private street.

Dwelling unit-related definitions:

- a. "Dwelling unit" - A structure or portion thereof that is used for human habitation including permanent provisions for sleeping, cooking, and sanitation.
- b. "Accessory dwelling unit" - An additional dwelling unit on the same lot with a primary dwelling unit or units. For the purposes of this title, attached and internal accessory dwelling units are considered small form residential development and detached accessory dwelling units are considered accessory dwelling units.
- c. "Apartments" - A type of attached housing that contains at least four dwelling units in any vertical or horizontal arrangement but excluding courtyard units, quads, and rowhouses.
- d. "Attached" - Connected or joined by a common wall, roof, or ceiling with another

dwelling unit. Dwelling units connected only by a breezeway, deck, porch, or other unconditioned or uninhabitable space are considered detached.

- e. "Cottage cluster" - A group of small detached dwelling units located on a single lot or group of lots where common areas and parking are shared.
- f. "Courtyard units" - A group of small attached dwelling units located on a single lot or group of lots where common areas and parking are shared.
- g. "Detached" - Not connected or joined by a common wall, roof, or ceiling with another dwelling unit. Dwelling units connected only by a breezeway, deck, porch, or other unconditioned or uninhabitable space are considered detached.
- h. "Manufactured home" - A structure that meets all of the following:
 - i. Constructed for movement on the public highways that has sleeping, cooking, and sanitation facilities and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction;
 - ii. Permanently anchored to the ground; and
 - iii. Complies with the minimum requirements for permanent connection of electrical and plumbing systems.
- i. "Quad" - A type of attached housing consisting of two dwelling units on a first story, attached at a common sidewall, and two dwelling units on a second story, attached to the first story dwelling units at their common floor and ceiling.
- j. "Rowhouse" - A type of attached housing that shares a common sidewall with one or more dwelling units, but excluding apartments, courtyard units, and quads. A rowhouse is considered the same as a townhouse within the meaning of state law.
- k. "Single detached house" - One dwelling unit, freestanding and structurally separated from any other dwelling unit or buildings, but excluding mobile homes, detached accessory dwelling units, and units in cottage cluster developments.
- l. "Small form residential" - One single detached house or up to three attached dwelling units on the same lot, which as a whole are freestanding and structurally separated from any other buildings. Small form residential includes duplexes, triplexes, and attached and internal accessory dwelling units within the meaning of state law. Small form residential does not include mobile homes, detached accessory dwelling units, or dwelling units in cottage cluster, courtyard unit, quad, or rowhouse developments.

E. "E" definitions.

"Easement" - A grant of one or more of the property rights by the property owner to or for use by the public, a corporation, or another person or entity.

"Eaves" - The lower edge of a sloping roof; that part of a roof of a building or structure that projects beyond the wall.

"Egress" - An exit.

"Enlargement" - An increase in size or scale of an existing structure or use, affecting the

physical size of the property, structure, building, parking, or other improvements.

"Entrance" - The space comprising a door and any flanking or transom windows associated with a building or structure.

"Exception" - Permission to depart from a specific design or development standard in the Community Development Code of the City of Tigard.

F. "F" definitions.

"Face" - To front upon.

"Family day care" - A facility authorized under ORS 329A to provide child care, often referred to as "Registered Family Child Care Homes" or "Certified Family Child Care Homes".

"Fee in lieu" - Payments in cash as an alternative to a dedication of land or construction of improvements required as a condition of a land use approval.

"Fence, sight-obscuring" - A barrier consisting of wood, metal, masonry, or similar materials, which obstructs vision.

"Final decision" - A determination reduced to writing, signed, and filed by the appropriate approval authority.

"Findings" - A written statement of the facts determined to be relevant by the approval authority as the basis for making its decision. The approval authority applies the relevant facts to the approval criteria or standards in order to reach its decision.

Flood-related definitions:

- a. "Area of special flood hazard" - The land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. It is shown on the Flood Insurance Rate Map (FIRM) as Zone A, AO, AH, A1-30, AE, A99, or AR. "Special flood hazard area" is synonymous in meaning and definition with the phrase "area of special flood hazard."
- b. "Base flood" - A flood having a one percent chance of being equaled or exceeded in any given year.
- c. "Flood" or "flooding" - A general and temporary condition of partial or complete inundation of normally dry land areas from:
 - i. The overflow of inland or tidal waters.
 - ii. The unusual and rapid accumulation or runoff of surface waters from any source.
 - iii. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in subsection c.ii of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- d. "Floodway" - The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

- e. "Floodway fringe" - The area of the special flood hazard area lying outside of the floodway.
- f. "Special flood hazard area" - See "Area of special flood hazard" above, for this definition.

"Floor area" - The gross horizontal area, under a roof, of all floors of a building or structure. See Section 18.40.100.

"Floor area ratio (FAR)" - The floor area of all buildings and structures on a lot divided by the total lot area. See Section 18.40.110.

"Frontage" - That portion of a development site that abuts a public or private street.

G. "G" definitions.

"Garage" - A fully-enclosed building, or portion thereof, that contains one or more parking spaces for the storage of vehicles or bicycles. A garage does not contain any parking aisles for internal maneuvering or circulation.

"Garage setback" - The horizontal distance from a property line or public access easement to the nearest portion of a garage door or carport entrance designed for vehicle access, whichever is shorter. For purposes of measurement, a carport entrance is the vertical plane between the ground and the outermost edge of the roof.

"Glare" - The effect produced by brightness sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

H. "H" definitions.

"Home occupation" - A for-profit business operating in or on the same lot as a dwelling unit in a residential, commercial, or industrial zone.

"Homeowners association" - An association operating under recorded land agreements through which each lot owner of a planned development, condominium development, subdivision, or other described land area is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property.

"Household" - A group of related or unrelated individuals living together in a dwelling unit.

I. "I" definitions.

"Impact analysis" - A study to determine the potential direct or indirect effects of a proposed development on activities, utilities, circulation, surrounding land uses, community facilities, environment, and other factors.

"Impervious surface" - Any material that prevents absorption of stormwater into the ground.

"Improvement" - Any permanent structure that becomes part of, placed upon, or is affixed to property.

"Ingress" - Access or entry.

J. "J" definitions.

[Reserved]

K. "K" definitions.

[Reserved]

L. "L" definitions.

"Land form alteration" - Any human-actuated change to improved or unimproved real estate, including, but not limited to, the addition of buildings or other structures, mining, quarrying, dredging, filling, grading, earthwork construction, stockpiling of rock, sand, dirt or gravel or other earth material, paving, excavation or drilling operations located within the area of special flood hazard.

"Landscape architect" - An individual registered with the Oregon State Landscape Architect Board as a registered landscape architect.

"Landscaping" - Areas primarily devoted to plants, including trees, shrubs, and groundcover, with or without other natural or artificial landscaping elements such as ponds, fountains, lighting, benches, bridges, rocks, paths, sculptures, trellises, or screens.

"Legal entity" - Includes, but is not limited to, individual proprietorships, partnerships, corporations, nonprofit corporations, associations, or joint stock companies.

"Legislative" - A land use decision that applies to a large number of individuals or properties.

"Loading space" or "loading area" - An off-street space on the same lot with a building, structure, or use, or contiguous to a group of buildings, structures, or uses, for the temporary parking of a vehicle that is loading or unloading persons, merchandise, or materials, and which space or berth abuts upon a street, alley or other appropriate means of access and egress.

Lot-related definitions:

- a. "Unit of land" - An area of land that is described by a survey or other legal description, and that is lawfully established as discrete and transferable. A unit of land created solely to establish a separate tax account is not considered lawfully established.
- b. "Lot" - A legally defined unit of land, other than a tract, that is the result of a land division. This definition is inclusive of the definitions of both lot (the result of subdividing) and parcel (the result of partitioning) provided by ORS 92.
- c. "Corner lot" - A unit of land situated at the intersection of two streets where the interior angle of such intersection does not exceed 135°.
- d. "Flag lot" - A lot with 25 feet or less of frontage and two distinct parts: the flag, which is the only area to accommodate a structure and is located behind a frontage lot; and the pole, which connects the flag to the street and provides the only street frontage for the lot. A flag lot may only be created through a lot line adjustment, lot consolidation, or partition process.
- e. "Front lot line" - In the case of an interior lot, a property line that abuts the street; in the case of a corner lot, the shortest of the two property lines that abut the street, except a property owner may choose which property line to identify as the front lot line where both street property lines are 75 feet or more in length; or in the case of a

through lot, the property line that abuts the street with the lowest classification.

- f. "Interior lot" - A unit of land other than a corner lot and having frontage on only one street.
- g. "Lot area" - The total horizontal area within the lot lines of a unit of land.
- h. "Lot averaging" - A technique that allows one or more lots in a subdivision to be undersized provided that the average lot size of all lots in the subdivision is not less than that required for the proposed housing types.
- i. "Lot consolidation" - The elimination of a common lot line between two or more units of land to form one lot.
- j. "Lot coverage" - The percentage of lot area covered by the horizontal projection of all structures, buildings, and other impervious surfaces.
- k. "Lot depth" - The distance from the midpoint of the front lot line to the midpoint of the rear lot line.
- l. "Lot line" - The property line bounding a unit of land.
- m. "Lot line adjustment" - The relocation of recorded lot lines that does not result in the creation of an additional unit of land.
- n. "Lot of record" - A unit of land that was not created through an approved subdivision or partition process, and additionally meets one of the following:
 - i. Created by a deed or other instrument and recorded with Washington County or another appropriate recording agency prior to July 22, 1968; or
 - ii. Annexed to the City of Tigard after July 22, 1968 and meets the criteria for a lot of record under the development code of Washington County.
- o. "Lot width" - For lots with straight front lot lines, lot width is the horizontal distance between the side lot lines as measured at the minimum front setback point along each side lot line. For lots with curved front lot lines, lot width is the horizontal distance between the side lot lines as measured at the minimum front setback point perpendicular from the midpoint of the front lot line. See Section 18.40.060 and Subsection 18.40.080.B.
- p. "Rear lot line" - The recorded lot line or lines most distant from and generally opposite the front lot line, except that in the case of an interior triangular lot or lot with more than four sides, it means a straight line ten feet in length which is parallel to the front lot line or its chord and intersects the other lot lines at points most distant from the lot line.
- q. "Side lot line" - Any lot line that is not a front or rear lot line.
- r. "Street side lot line" - A side lot line that abuts a street.
- s. "Sublot" - A unit of land resulting from a subplot plat. A subplot is not considered a lot and is created solely for platting and property transfer purposes. Each subplot is considered part of the lot from which it was created and is not further divisible. Each

sublot must contain only one dwelling unit.

- t. "Tax lot" - Lot designation created by the county assessor for the purpose of levying property taxes. A unit of land created solely to establish a separate tax account is not considered lawfully established for development purposes.
- u. "Through lot" - A unit of land that fronts upon two parallel streets or that fronts upon two streets that do not intersect at the boundaries of the unit of land.
- v. "Tract" - A unit of land created and designated through a land division process for a specific purpose, including, but not limited to: stormwater management, creation of a private street or alley, tree preservation, protection of environmental resources, or provision of open space. A tract is not a lot, a lot of record, or a public right-of-way.
- w. "Zero lot line" - The location of a building or structure on a lot in such a manner that one or more of the building's sides rest directly on a lot line.

M. "M" definitions.

"Marijuana" - All parts of the plant of the Cannabis family Moraceae, whether growing or not; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its resin, as may be defined by Oregon Revised Statutes as they currently exist or may from time to time be amended. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted there from), fiber, oil, or cake, or the sterilized seed of the plant that is incapable of germination.

"Marijuana facility" - A commercial or public use or structure where marijuana is produced, processed, distributed, transferred, sold, or consumed.

"Marquee" - A permanent roof-like shelter over an entrance to a building or structure.

"Mitigation" - Methods used to alleviate or lessen the impact of development.

"Mixed-use development" - The development of a lot, building, or structure with a variety of complementary and integrated uses, such as, but not limited to, residential, office, manufacturing, retail, public, or entertainment, in a compact urban form.

"Mobile home" - A structure constructed for movement on the public highways that has sleeping, cooking, and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed prior to June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

"Mobile home park" - Any place where four or more mobile homes are located within 500 feet of one another on a lot under the same ownership, the primary purpose of which is to rent space or keep space for rent to any person for a charge or fee paid or to be paid for the rental use of facilities or to offer space free in connection with securing the trade or patronage of such person.

N. "N" definitions.

"Noise" - Any undesired audible sound.

"Nonconforming circumstance" - A use, activity, lot, or development that was lawful prior

to the adoption, revision, or amendment of the Community Development Code of the City of Tigard but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the applicable base zone.

O. "O" definitions.

"Occupancy permit" - A required permit allowing the use of a building or structure after it has been determined that all the requirements of applicable ordinances have been met.

"Off-site impact" - A condition that creates, imposes, aggravates, or leads to inadequate, impractical, unsafe, or unhealthy conditions on a site proposed for development or on off-site property or facilities.

"Off-site improvement" - Improvements required to be made off-site as a result of an application for development and including, but not limited to, road widening and upgrading, stormwater facilities, and traffic improvements.

"Outdoor storage" - The keeping of any goods, junk, material, merchandise or vehicles in the same place for more than 24 hours when not completely enclosed within a building or structure.

"Owner" - Any person, agent, firm, or corporation having legal or equitable interest in the property.

P. "P" definitions.

"Parapet" - A low, solid, protective screening or decorative wall as an extension of exterior building walls beyond the roof or deck level.

"Park" - Any unit of land set apart and devoted to the purposes of pleasure, recreation, ornament, light, and air for the general public.

"Parking lot" - An uncovered paved area that includes multiple parking spaces and parking aisles for internal maneuvering and circulation.

"Parking space" - A clearly defined area used to store a single vehicle or bicycle that meets the minimum standards of this title.

"Parking structure" - A single- or multi-story building, or portion thereof, that contains multiple parking spaces for the storage of vehicles or bicycles. A parking structure contains parking aisles for internal maneuvering and circulation.

"Partition" - Division of a unit of land into two or three lots or tracts within a calendar year when such area of land exists as a unit or contiguous units of land under common ownership. Partitioning land does not include:

- a. Divisions of land resulting from lien foreclosures, foreclosures of recorded contracts for the sale of real property, or creation of cemetery lots;
- b. Any adjustment of a lot line by the relocation of a common boundary where an additional lot is not created and where the existing lot, reduced in size by the adjustment, is not reduced below the minimum lot size established by an applicable zoning ordinance; or
- c. The sale of a lot in a recorded subdivision, even though the lot may have been acquired prior to the sale with other contiguous lots or property by single owner.

"Party" - A person who makes an appearance in a proceeding through the submission of either written or verbal evidence.

"Perimeter" - The boundaries or borders of a unit of land.

"Person" - An individual, corporation, governmental agency, official advisory committee of the city, business trust, estate, trust, partnership, association, or two or more people having a joint or common interest or any other legal entity.

"Pilaster" - An ornamental or functional column or pillar incorporated into a wall.

"Planning Commission" - The Planning Commission of the City of Tigard, Oregon.

"Plat" - A final map, diagram, or other writing containing all the descriptions, specifications, and provisions concerning a land division.

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

"Public support facilities" - Services that are necessary to support uses allowed in the base zone and involve only minor structures such as underground utilities and construction of improvements including sidewalks, curbs, streetlights, and driveway aprons, power lines and poles, phone booths, fire hydrants, as well as bus stops, benches, and mailboxes that are necessary to support principal development.

Q. "Q" definitions.

"Quasi-judicial" - Action that involves the application of adopted policy to a specific land use application or amendments.

R. "R" definitions.

"Recreational vehicles" - A vacation trailer or other unit, with or without motor power, which is designed for human occupancy and to be used temporarily for recreation or emergency purposes. The unit must be identified as a recreational vehicle by the manufacturer.

"Regulated affordable housing" - Housing units that are made affordable through public subsidies or statutory regulations that restrict or limit resident income levels, rents, or mortgages, including any ancillary fees. Regulated affordable housing must:

- a. Be subject to a local, state, or federal compliance agreement or contract with a minimum term of at least 20 years; and
- b. Be affordable to households at or below 80% median family income as defined annually by Housing and Urban Development (HUD) for the Portland-Vancouver Metropolitan Statistical Area (MSA).

"Remodel" - An internal or external modification to an existing building or structure that does not increase the lot coverage.

"Reserve strip" - A strip of property usually one foot in width overlaying a dedicated street that is reserved to the city for control of access until such time as additional right-of-way is accepted by the city for continuation or widening of the street.

"Residence" - See "Dwelling unit."

"Roof" - The exterior surface and its supporting structure on the top of a building or structure.

S. "S" definitions.

"Setback" (front, rear, side, and street side) - The horizontal distance from a property line to the nearest vertical wall of a structure. Also see "garage setback."

"Site" - Any unit of land or combination of contiguous units of land.

"Slope" - The deviation of a surface from the horizontal, usually expressed in percent or degrees.

"Square footage" - For lot square footage, see "gross lot area." For building square footage, see "floor area."

"Story" – See Oregon Residential Specialty Code.

"Structure" - Any object that is built or constructed, and located in or on the ground, or that is attached to something fixed to the ground. Structure includes buildings, decks, fences, towers, flag poles, signs, and other similar objects. Structure does not include paved areas or vegetative landscaping materials.

"Subdivision" - Division of a unit of land into four or more units of land within a calendar year when such unit of land exists as a unit or contiguous units of land under a common ownership. The term "subdivision" also applies to an area of land that has been subdivided.

"Substantial improvement" - Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

- a. Before the improvement or repair is started; or
- b. If the structure has been damaged and is being restored, before the damage occurred. "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:
 - i. Any development for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications that are solely necessary to ensure safe living conditions; or
 - ii. Any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

T. "T" definitions.

"Temporary use" - A use of land, a building, or a structure that is short-term or seasonal in nature and does not make permanent changes to a site.

"Tigard-based nonprofit organization" - An organization that is located in the city and has nonprofit status as defined by the state of Oregon and raises funds that are used by the organization.

"Traffic Flow Plan" - A plan submitted with a proposal for skinny streets that shows the potential queuing pattern that will allow for safe and efficient travel of emergency vehicles, service vehicles and passenger vehicles with minimal disturbance. This may include a

combination of strategic driveway locations, turnouts or other mechanisms that will foster safe and efficient travel.

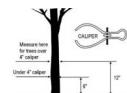
"Transom" - A horizontal glass plane, typically encased in a wood or metal frame that separates the storefront from the upper facade.

Transportation-related definitions:

- a. "Alley" - A minor way that is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.
- b. "Bike lane" - Lanes on an improved street that are designated for use by bicyclists and separated from vehicular traffic either by striping or small concrete barrier.
- c. "Bikeway" - A path, paved and separated from streets and sidewalks, designed to be used by cyclists.
- d. "Path" - A paved off-street transportation facility for pedestrians and bicyclists that provides connections within, through, or between developments within a single block or for short distances.
- e. "Right-of-way" - A strip of land occupied or intended to be occupied by a street, crosswalk, pedestrian and bike paths, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, street trees or other special use. The usage of the term right-of-way for land division purposes means that every right-of-way hereafter established and shown on a plat or map is to be separate and distinct from the lots adjoining such right-of-way and not included within the dimensions or areas of such lots.
- f. "Road" - See "Street."
- g. "Sidewalk" - A paved on-street transportation facility for pedestrians.
- h. "Street" - A public or private accessway that is created to provide ingress or egress for vehicles to three or more lots, excluding a private way that is created to provide ingress or egress to such land in conjunction with the use of such land for forestry, mining, or agricultural purposes. Also see "right-of-way."
- i. "Trail" - A paved off-street transportation facility for pedestrians and bicyclists that spans multiple developments, lots, or blocks. They are often located next to other linear corridors such as streams, highways, or rail lines and allow users to travel greater distances than paths.

Tree-related definitions:

- a. "Caliper" - The tree care industry standard for measuring the trunk diameter of nursery stock. Caliper is the average diameter of the trunk of a nursery tree measured six inches above the ground for trunks less than or equal to an average of four inches in diameter (when measured six inches above ground). When the trunk of a nursery tree is greater than an average of four inches in diameter (when measured six inches above ground), caliper is the average diameter at 12 inches above ground (See Figure 18.30.1).

Figure 18.30.1 Caliper

- b. "Certified arborist" - An individual certified by the International Society of Arboriculture as a certified arborist.
- c. "Covered soil volume" - A volume of soil that is under pavement and specially designed to support the growth of a tree. Covered soil volumes contain existing, new, or amended soil with the physical, chemical, and biological properties necessary to support the growth of a tree, while at the same time supporting the load-bearing requirements and engineering standards of the overlying pavement. Covered soil volumes would not be considered tree growth limiting by a project arborist or landscape architect in an urban forestry plan developed per the standards in Chapter 18.420, Landscaping and Screening and the Urban Forestry Manual.
- d. "Development impact area" - The area on a site or right-of-way associated with a site affected by any and all site or right-of-way improvements, including, but not limited to, buildings, structures, walls, parking and loading areas, street improvements, paved and graveled areas, utilities, irrigation, equipment storage, construction parking and landscaping. The impact area also refers to areas of grading, filling, stockpiling, demolition, tree removal, trenching, boring and any other activities that require excavation or soil disturbance.
- e. "Diameter at Breast Height (DBH)" - The average diameter of the trunk of a tree measured 4.5 feet above mean ground level at the base of the trunk. If the tree splits into multiple trunks above ground, but below 4.5 feet, the DBH is the average diameter of the narrowest point beneath the split. If the tree has excessive swelling at 4.5 feet, the DBH is the average diameter of the narrowest point beneath the swelling. If the tree splits into multiple trunks at or directly below ground, it is considered one tree and the DBH is the square root of the sum of the cross-sectional area of each trunk at 4.5 feet above mean ground level multiplied by 1.1284.
- f. "Dripline" - The outer limit of a tree canopy projected to the ground.
- g. "Hazard tree" - Any tree or tree part that has been or could be determined by an independent tree risk assessor to constitute a high level hazard requiring hazard tree abatement with an overall minimum risk rating of 8 for trees or tree parts up to four-inch DBH, 9 for trees or tree parts greater than four-inch and up to 20-inch DBH, or 10 for trees or tree parts greater than 20-inch DBH using the tree risk assessment methodology in Appendix 1 of the Urban Forestry Manual.
- h. "Hazard tree abatement" - The process of reducing or eliminating a hazard to an overall risk rating of less than 8 for trees or tree parts up to four-inch DBH, 9 for trees or tree parts greater than four-inch and up to 20-inch DBH, or 10 for trees or tree parts greater than 20-inch DBH using the tree risk assessment methodology in Appendix 1 of the Urban Forestry Manual through pruning, tree removal, or other means in a manner that complies with all applicable rules and regulations.
- i. "Hazard tree owner or responsible party" - The property owner or responsible party

with the largest percentage of a hazard tree trunk immediately above the trunk flare or root buttresses. In cases where the hazard tree consists of a branch instead of an entire tree, the hazard tree owner or responsible party is the person who owns or is responsible for the property from where the branch originates.

- j. "Heritage tree" - Any tree or stand of trees of landmark importance due to age, size, species, horticultural quality, or historic importance that has been approved as a heritage tree by the Tigard City Council.
- k. "Median tree" - Any tree within the public right-of-way under City of Tigard jurisdiction between opposing lanes of vehicular traffic. Trees in the centers of cul-de-sacs and roundabouts within the public right-of-way under City of Tigard jurisdiction are considered median trees.
- l. "Nuisance tree" - Any tree included on the Nuisance Tree List in the Urban Forestry Manual.
- m. "Open grown tree" - Any tree that has grown and established in an isolated manner without significant competition for light, space, and nutrients from other trees. Open grown trees generally retain more foliage, develop greater trunk tapers, have more extensive root systems, and are more resistant to windthrow than stand grown trees.
- n. "Open soil volume" - An unpaved volume of soil, which contains existing, new, or amended soil with the physical, chemical and biological properties necessary to support the growth of a tree.
- o. "Parking lot tree" - Any tree used to meet minimum parking lot landscaping requirements.
- p. "Significant tree grove" - A stand of trees that has been identified as significant through the Statewide Land Use Planning Goal 5 process and mapped on the "City of Tigard Significant Tree Grove Map."
- q. "Stand (of trees)" - A distinct area of stand grown trees, often predominantly native and with contiguous canopies, which form a visual or biological unit.
- r. "Stand grown tree" - Any tree that has grown and established in close association with other trees and, as a result, has experienced significant competition for light, space, and nutrients from other trees. Stand grown trees generally retain less foliage, develop less trunk taper, have less extensive root systems, and are less resistant to windthrow than open grown trees.
- s. "Street tree" - Any tree equal to or greater than 1.5 inch caliper or DBH within a public right-of-way under City of Tigard jurisdiction or easement for public access under City of Tigard jurisdiction, or any tree equal to or greater than 1.5 inch caliper or DBH outside of a public right-of-way or easement for public access that the city can demonstrate was planted or preserved as a street tree to meet the requirements for a city permit or project. Median trees are not considered street trees.
- t. "Tree" - A woody perennial plant, often with one dominant trunk, the capacity to achieve a mature height greater than 16 feet, and primarily referred to as a tree in scientific literature.

- u. "Tree canopy" - The area above ground that is covered by the trunk, branches, and foliage of a tree or group of trees' crowns.
- v. "Tree canopy cover, effective" - A formula detailed in Chapter 18.420, Landscaping and Screening and the Urban Forestry Manual used to calculate the amount of tree canopy that will be provided for a given unit of land through any combination of preserving existing trees and planting new trees. In general, the formula grants bonus tree canopy credit based on the existing tree canopy of trees that are preserved, and grants additional tree canopy credit based on the projected mature tree canopy of newly planted trees.
- w. "Tree care industry standards" - Generally accepted industry standards for tree care practices detailed in the most current version of the American National Standards Institute (ANSI) A300 Standards for Tree Care Operations. In addition, tree care industry standards includes adherence to all applicable rules and regulations for the completion of any tree care operation.
- x. "Tree removal" - The cutting or removing of 50 percent or more of a crown, trunk, or root system of a tree, or any action that results in the loss of aesthetic or physiological viability or causes the tree to fall or be in immediate danger of falling.
- y. "Tree risk assessor" - An individual deemed qualified by the International Society of Arboriculture to conduct tree risk assessments.
- z. "Understory tree" - Any tree that is adapted to grow and complete its lifecycle within the shade and beneath the canopy of another tree.

"Turret" - A very small and slender tower attached to a larger building.

U. "U" definitions.

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

V. "V" definitions.

"Visible transmittance" - A measure of the amount of visible light transmitted through a material (typically glass). Information about visible transmittance typically is, or can be, provided by window manufacturers.

"Vision clearance area" - A triangular area located at the intersection of two streets, a street and a railroad, or a street and a driveway; defined by a line across the corners, the ends of which are on the street or alley lines, an equal and specified distance from the corner.

"Visual obstruction" - Any fence, hedge, tree, shrub, device, wall, or structure between the elevations of three feet and eight feet above the adjacent curb height or above the elevation of gutter line of street edge where there is no curb, as determined by the Public Works Director or City Engineer, and so located at a street, drive, or alley intersection as to limit the visibility of pedestrians or persons in motor vehicles on said streets, drives, or alleys.

W. "W" definitions.

"Wetlands" - Land often called swamp, marsh, or bog that exhibits all of the following characteristics:

- a. The land supports hydrophytic vegetation. This occurs when more than 50 percent of the dominant species from all strata are classified as wetland species;
- b. The land has hydric soils. Hydric soils are soils that are saturated, flooded, or in ponds long enough during the growing season to develop anaerobic conditions in the upper part of the soil profile; and
- c. The land has wetland hydrology. Wetland hydrology is permanent or periodic inundation, or soil saturation for a significant period (at least one week) during the growing season.

The city will use the "Federal Manual for Identifying and Delineating Jurisdictional Wetlands" as the basis for determining where wetlands are located. An area of privately owned land that otherwise satisfies the definition of a wetland is not defined as a wetland if it was created by human activity after October 11, 1984, as part of an approved development. This exclusion does not apply to wetland migration areas.

"Window" - Any opening constructed in a wall to admit light or air, framed and spanned with glass.

Wireless communication facility-related definitions:

- a. "Antenna" - A device commonly in the form of a metal rod, wire panel or dish, for transmitting or receiving electromagnetic radiation. An antenna is typically mounted on a supporting tower, pole, mast, or building.
- b. "Collocation" - The mounting or installation of an antenna on an existing tower, building, or structure for the purpose of transmitting or receiving radio frequency signals for communications purposes, whether or not there is an existing antenna on the structure.
- c. "FAA" - The Federal Aviation Administration.
- d. "FCC" - The Federal Communications Commission.
- e. "Non-tower" - Any existing structure such as a building, mechanical equipment, water tank, utility pole, or light pole, to which wireless communication equipment is attached, but which does not have the primary purpose of supporting such equipment.
- f. "Provider" - A person or company in business of designing, installing, marketing and servicing wireless communication services including cellular telephone, personal communications services (PCS), enhanced/specialized mobile telephones, and commercial paging services.
- g. "Public infrastructure" - structures in the public right-of-way that are in public ownership or are supportive of public or private utilities.
- h. "Small cell" - A low-power wireless communication facility used to increase capacity to wireless communication demand areas or provide infill coverage in areas of weak reception, including a separate transmitting and receiving station serving the facility. Small cell wireless facilities must:
 - i. Be mounted on structures 50 feet or less in height, including all antennas;

- ii. Not include any antenna more than three cubic feet in volume; and
 - iii. Include no more than 28 cubic feet of accessory equipment, including pre-existing associated equipment.
- i. "Tower" - A new structure, tower, pole, or mast erected to support wireless communication antennas and connecting appurtenances. Support structure types include:
- i. "Guyed tower" - A tower that is supported by the use of cables (guy wires) that are permanently anchored;
 - ii. "Lattice tower" - A tower characterized by an open framework of lateral cross members that stabilize the tower;
 - iii. "Monopole" - A single upright pole, engineered to be self-supporting and requiring no guy wires or lateral cross-supports.
- j. "Wireless communication facility" - An unmanned facility for the transmission of radio frequency (RF) signals, usually consisting of an equipment shelter, cabinet, or other enclosed structure containing electronic equipment, a support structure, antennas or other transmission and reception devices.
- (Ord. 17-22 §2; Ord. 18-21 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2; Ord. 23-09, 12/12/2023)

CHAPTER 18.40 **Measurements**

§ 18.40.010. Purpose.

This chapter establishes the methods for measuring distances and other types of required measurements.

(Ord. 17-22 §2)

§ 18.40.020. Net Development Area.

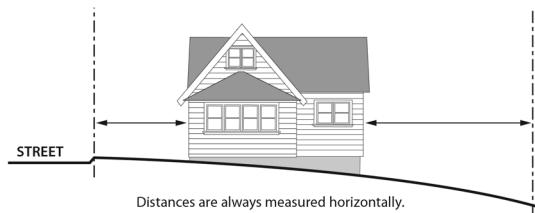
Net development area is determined by subtracting the following areas from the gross lot area:

- A. All sensitive lands, including:
 1. Land within the special flood hazard area,
 2. Land or slopes exceeding 25 percent,
 3. Drainage ways, and
 4. Wetlands;
- B. All land dedicated to the public for park purposes;
- C. All land dedicated for public rights-of-way;
- D. All land proposed for private streets; and
- E. Optionally, the applicant may subtract the following:
 1. Significant tree groves or habitat areas, as designated on the City of Tigard "Significant Tree Grove Map" or "Significant Habitat Areas Map", provided they are preserved in a tract; and
 2. Trails and paths, provided they are preserved in a public access easement.

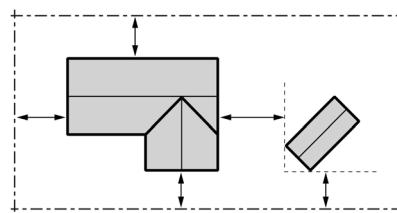
(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.40.030. Distances.

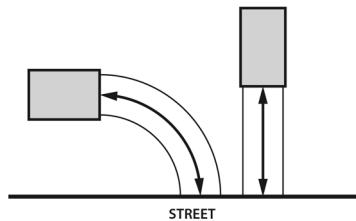
- A. Horizontal distances. When determining distances for setbacks and structure dimensions, all distances are measured along a horizontal plane from the appropriate property line, edge of building, structure, storage area, parking area, or other object. These distances are not measured by following the topography of the land. See Figure 18.40.1.

Figure 18.40.1 Horizontal Measurement

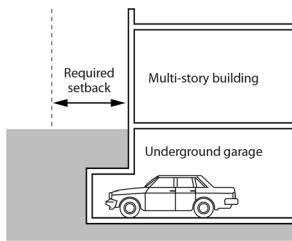
- B. Measurements are shortest distance. When measuring a required distance, such as the minimum distance between a structure and a lot line, the measurement is made at the shortest distance between the two objects or points. See Figure 18.40.2. Exceptions are stated in Subsections 18.40.030.C, E, and F.

Figure 18.40.2 Closest Distance

- C. Measurements of vehicle travel areas. Measurement of a minimum travel distance for vehicles, such as garage entrance setbacks and stacking lane distances, are measured down the center of the vehicle travel area. For example, curving driveways and travel lanes are measured along the arc of the driveway or traffic lane. See Figure 18.40.3.

Figure 18.40.3 Measuring Vehicle Travel Areas

- D. Measurement of distance between rights-of-way. Distance between rights-of-way is measured from centerline of one right-of-way to the centerline of the other right-of-way.
- E. Measurements involving a structure. Measurements involving a structure are made to the closest wall of the structure. Chimneys, eaves, building and window trim, and bay windows up to 12 feet in length, are not included in the measurement. Other items, such as covered porches and entrances, are included in the measurement. See Figure 18.40.2.
- F. Underground structures. Structures or portions of structures that are entirely underground are not included in measuring required distances. See Figure 18.40.4.

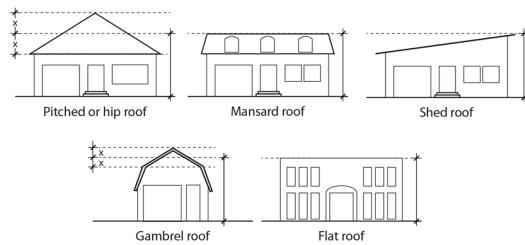
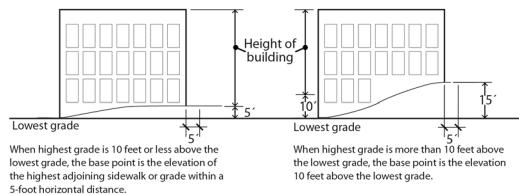
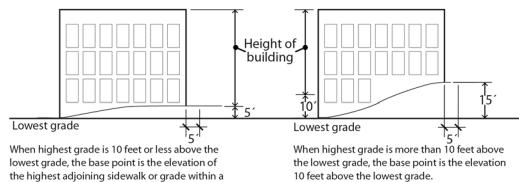
Figure 18.40.4 Underground Structures

- G. Landscaping. Measurements of the dimensions of a landscaped area include only the area that is actually landscaped, and not any other elements, such as protective curbs.
- H. Measurement of distance from a bus stop or transit station. When measuring distance from a bus stop, the measurement is taken from the bus stop sign. When measuring distance from a transit station, the measurement is taken from the edge of the platform.
- I. Measurement of distance between transit line and property. The distance between a transit line and a property is the shortest straight-line distance from the property lines and the edge of the nearest right-of-way where fixed-route public transit service is provided.

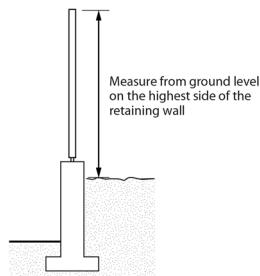
(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.40.040. Building Height.

- A. Building height. The height of buildings is the vertical distance above the base point shown in Figures 18.40.6 and 18.40.7. The base point used is the method that yields the greater height of building. Methods to measure specific roof types are shown below and in Figure 18.40.5:
 1. Flat roof (pitch is 2 in 12 or less): Measure to the top of the parapet, or if there is no parapet, to the highest point of the roof.
 2. Mansard roof: Measure to the deck line.
 3. Gabled, hipped, or gambrel roof: Measure to the midpoint of the highest gable.
 4. Other roof shapes such as domed, shed, vaulted, or pyramidal shapes: Measure to the highest point.
 5. Stepped or terraced building: Measure to the highest point of any segment of the building.
 - a. Base point 1 is the elevation of the highest adjacent sidewalk or ground surface within a 5-foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than 10 feet above lowest grade. See Figure 18.40.6.
 - b. Base point 2 is the elevation that is 10 feet higher than the lowest grade when the sidewalk or ground surface described in Subparagraph 18.40.040.A.5.a is more than 10 feet above lowest grade. See Figure 18.40.7.

Figure 18.40.5 Building Height - Roof Types**Figure 18.40.6 Building Height-Base Point 1****Figure 18.40.7 Building Height-Base Point 2**

- B. Measuring height of other structures. The height of other structures such as flag poles and fences is the vertical distance from the ground level immediately under the structure to the top of a structure, excluding exempted portions. When chimneys and other objects are allowed to exceed the height of the base zone by a set amount, that set amount is measured to the top of these objects. Special measurement provisions are also provided below.
1. Retaining walls and fences on top of retaining walls are measured from the ground level on the higher side of the retaining wall. See Figure 18.40.8.

Figure 18.40.8 Measuring Height – Retaining Walls

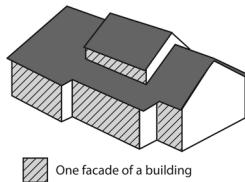
2. Measuring height of decks. Deck height is determined by measuring from the ground to the top of the floor of the deck if there is no rail or if the rail walls are more than 50 percent open, and from the ground to the top of the rails for all other situations.
(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.40.050. Building Facade Area.

The area of a specific facade of a building is determined by adding the square footage of surface area of each section of wall visible from that perspective. For buildings with articulated facades,

all of the walls are included in the total area. The total area does not include any roof area. See Figure 18.40.9.

Figure 18.40.9 Building Facade Area

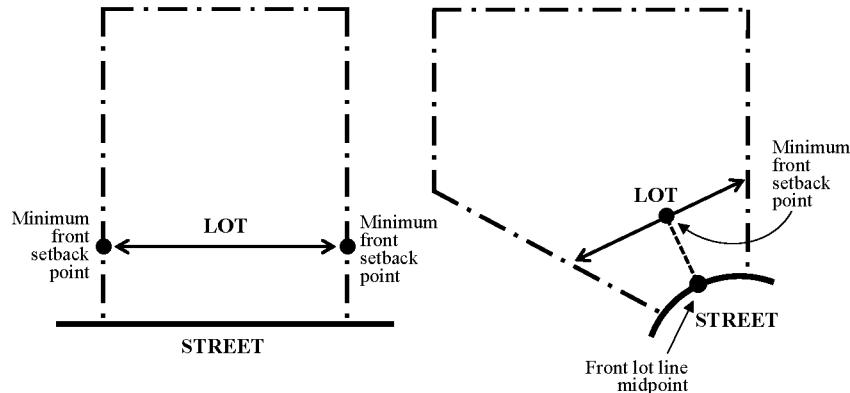


(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 20-01 §1)

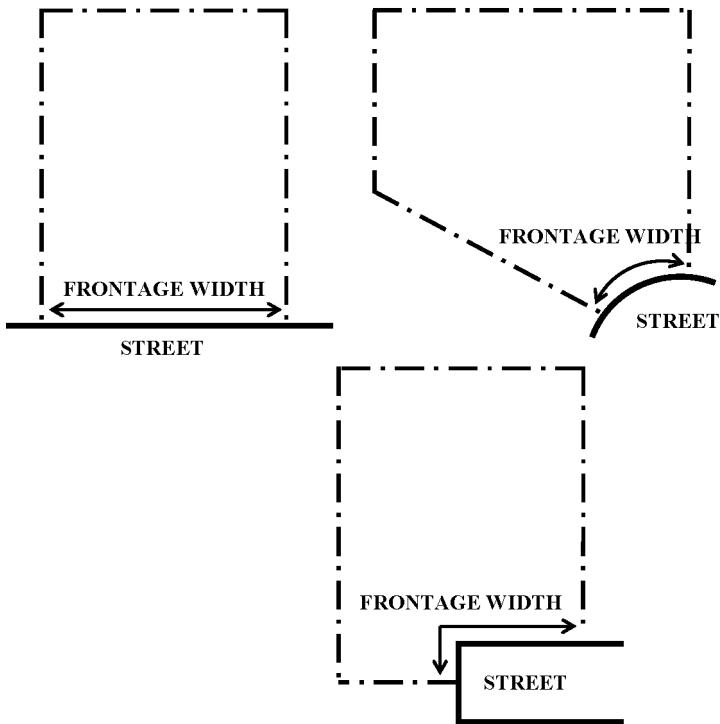
§ 18.40.060. Lot Width, Lot Frontage, and Segmented Lot Lines.

A. Lot width is measured from the front lot line as shown in the figure below.

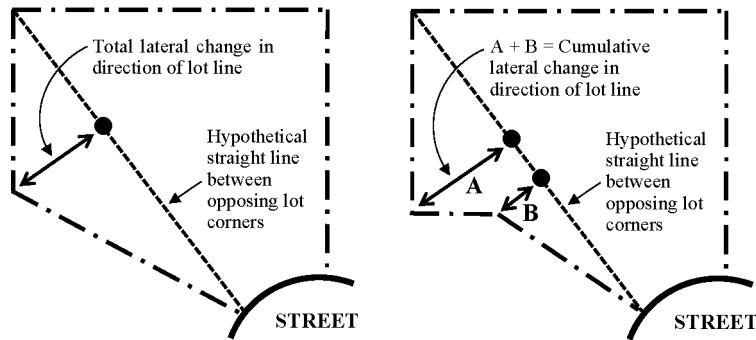
Figure 18.40.10 Lot Width



B. Lot frontage is measured along the front lot line as shown in the figure below.

Figure 18.40.11 Lot Frontage

- C. Segmented lot lines include one or more lateral changes in direction. A lateral change is measured by drawing a hypothetical straight line between opposing lot corners and measuring the horizontal distance between the hypothetical straight line and the furthest extent of the actual lot line perpendicular from the hypothetical straight line. Cumulative lateral changes are measured by repeating this process for each lateral change in direction and summing all the distances as shown in the figure below. In the case of flag lots, the pole portion of the lot is not included in the measurement of cumulative lateral changes; cumulative lateral changes are measured only between the opposing corners of the flag portion of the lot.

Figure 18.40.12 Segmented Lot Lines

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.40.070. Setbacks.

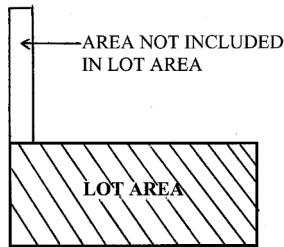
Setbacks are measured from the corresponding property line unless otherwise stated. For example, a side setback is measured from a side property line.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.40.080. Flag Lots.

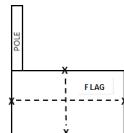
- A. Lot area. The lot area of a flag lot must be provided entirely within the building site area exclusive of any access. See Figure 18.40.14.

Figure 18.40.14 Lot Area for Flag Lots



- B. Lot width and depth. The lot width and depth for a flag lot is measured at the midpoint of opposite lot lines of the flag portion of the lot. See Figure 18.40.15.

Figure 18.40.15 Lot Width and Depth for Flag Lots



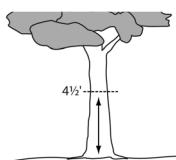
- C. Front setback determination. The owner or developer of a flag lot may determine the location of the front setback, provided no side setback area is less than 10 feet.
(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.40.090. Tree Diameter.

Tree diameter is measured in several ways:

- A. Existing trees are generally measured in terms of diameter inches at a height of 4.5 feet above the ground. The diameter may be determined by measuring the circumference of the tree trunk and dividing by 3.14. See Figure 18.40.16.

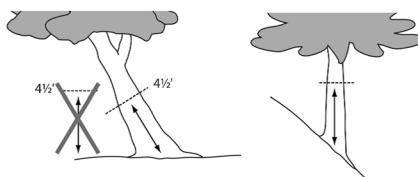
Figure 18.40.16 Measuring Tree Size for Existing Trees



- B. When the trunk is at an angle or is on a slope, the trunk is measured at right angles to the

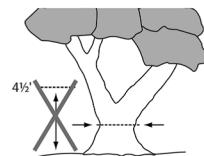
trunk 4.5 feet along the center of the trunk axis, so the height is the average of the shortest and the longest sides of the trunk. See Figure 18.40.17.

Figure 18.40.17 Measuring Existing Trees with an Angle or on Slopes



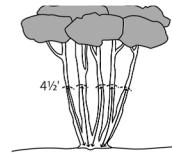
- C. When the trunk branches or splits less than 4.5 feet from the ground, the trunk is measured at the smallest circumference below the lowest branch. See Figure 18.40.18.

Figure 18.40.18 Measuring Split Trunk Tree



- D. For multi-stemmed trees, the size is determined by measuring all the trunks at 4.5 feet from the ground and adding the total diameter of the largest trunk and half the diameter of each additional trunk; see Figure 18.40.19. A multi-stemmed tree has trunks that are connected above the ground and does not include individual trees growing close together or from a common root stock that do not have trunks connected above the ground.

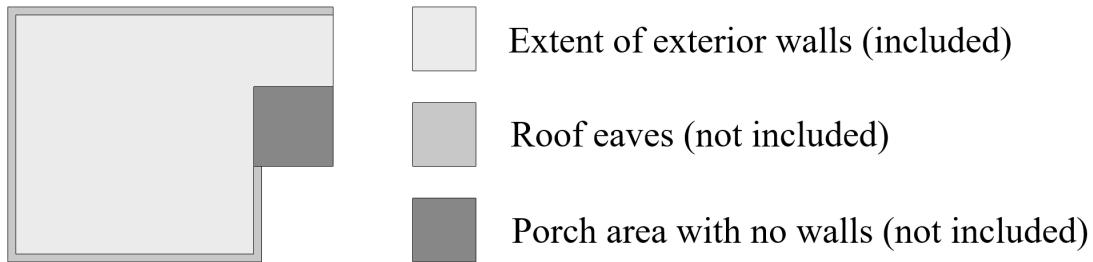
Figure 18.40.19 Measuring Multi-Stemmed Trees



- E. Nursery trees are measured in caliper inch, which is the diameter of the trunk 6 inches above the ground or root ball. For coniferous trees, the tree height may also be used.
(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.40.100. Floor Area.

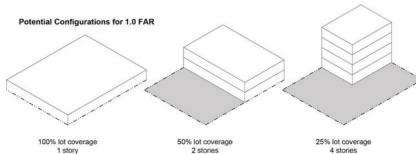
The total floor area of a building or structure is the sum of the floor area of all stories in the building. The floor area of a story of a building or structure is measured from the outside of exterior walls, and includes all stairwells, ramps, shafts, chases, and the area devoted to garages and structured parking.

Figure 18.40.20 Floor Area of a Building

(Ord. 18-23 §2; Ord. 19-09 §1)

§ 18.40.110. Floor Area Ratio.

The floor area ratio (FAR) is determined by dividing the gross floor area of all buildings or structures on a lot by the net development area of the lot.

Figure 18.40.21 Floor Area Ratio

(Ord. 18-23 §2)

§ 18.40.120. Detached Accessory Dwelling Units.

- The square footage of a garage attached to a detached accessory dwelling unit is included in the square footage for the accessory dwelling unit.
 - The height of an accessory dwelling unit is measured using the standards of Section 18.40.040. If an accessory dwelling unit is located above a detached accessory structure, such as a garage, then the combined height of the accessory structure and the accessory dwelling unit must not exceed the maximum height for a detached accessory dwelling unit.
- (Ord. 18-23 §2; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.40.130. Residential Density.

- Residential density for apartments development. The minimum and maximum density for apartments is provided in Table 18.230.
- Residential density for other housing types. Minimum and maximum residential density for cottage clusters, courtyard units, rowhouses, quads, and small form residential development are determined by the minimum and maximum lot sizes provided in Chapter 18.805 Lot Standards and the applicable development standards chapters for each housing type in Chapter 18.200.
- Fractions. When a density calculation results in a fraction, the result will be rounded down

to the nearest consecutive whole number.
(Ord. 18-23 §2; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.40.140. Window Area.

- A. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms.
- B. Required window area must be clear glass and not mirrored, frosted, or reflective, except where specifically stated otherwise. Clear glass within doors may count toward meeting a window area standard.

(Ord. 18-28 §1)

§ 18.40.150. Parking Lots.

Parking lot area is the sum of all paved surfaces on a development site that are designed for vehicle access, storage, maneuvering, and loading, inclusive of curbs, landscape islands, and the first five feet of any other landscape area adjacent to the paved areas. Paved areas for the exclusive use of pedestrians or bicycles, paved areas underneath conditioned space within a building, and parking structures of two stories or more, are excluded from this calculation, even if they are contiguous with the parking lot.

(Ord. 23-08, 12/5/2023)

CHAPTER 18.50 Nonconforming Circumstances

§ 18.50.010. Purpose.

The purpose of this chapter is to allow certain nonconforming lots, structures, uses, and development to continue but to prohibit their enlargement, expansion, or extension.
(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.50.020. General Provisions.

- A. Nonconforming circumstances are lots, structures, uses of land, and site improvements that were lawful when established, but would not be allowed under current regulations as a result of a change to the applicable base zone or development standards.
- B. The status of a nonconforming circumstance is not affected by changes in ownership.
- C. A nonconforming circumstance may be changed to a conforming circumstance by right. Once a conforming circumstance occupies a site, the nonconforming rights are lost and the nonconforming circumstance may not be re-established.
- D. The regulations of this chapter apply to all nonconforming circumstances except the following:
 1. Small form residential development in the MU-CBD zone.
 2. Nonconforming uses and developments in the Washington Square Regional Center Plan District, which are subject to the standards of Section 18.670.050.
 3. Nonconforming uses and developments in the TMU zone, which are subject to the standards of Chapter 18.660, Tigard Triangle Plan District.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.50.030. Determination of Nonconforming Use Status.

A determination regarding the legal status of a nonconforming circumstance is processed through a Director determination, as provided in Chapter 18.730, Director Determinations. A nonconforming use is determined to be legal when both of the following are met:

- A. The applicant has provided proof that the use was lawful at the time it was established, by one or more of the following:
 1. Copies of issued development permits or land use approvals granted at the time the use was established;
 2. Copies of zoning ordinances or maps; or
 3. Demonstration that the use was established before the first development code for the City of Tigard was adopted.
- B. The applicant has provided proof that the use has been maintained over time. This proof must include copies of one or more of the following for every other year from the time the use was established until the current year:

1. Utility bills;
2. Income tax records;
3. Business licenses;
4. Listings in telephone, business, or other related directories;
5. Advertisements in dated publications, for example trade magazines; or
6. Land use approvals or development permits.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.50.040. Criteria for Nonconforming Situations.

A. Nonconforming lots.

1. Except as provided in Paragraph 18.50.040.A.2 and Subsections 18.50.040.B and C, development of nonconforming lots and enlargement, modification, or reconstruction of uses on nonconforming lots are prohibited.
2. If a lot does not meet the minimum lot size standard, the lot may:
 - a. Be occupied by one use allowed in a commercial zone, if the lot is located within a commercial zone; or
 - b. Be occupied by small form residential development and accessory structures if located in a residential zone.
3. Development allowed on a nonconforming lot under the provisions of Paragraph 18.50.040.A.2 is subject to the following:
 - a. The nonconforming lot must not be contiguous with other lots in the same ownership; and
 - b. All other applicable provisions of this title must be met.
4. If a nonconforming lot is contiguous with another lot in common ownership, the following provisions apply:
 - a. The lots involved are considered to be an undivided unit of land for the purposes of this title;
 - b. Conveyance, transfer, or use of the lots or any portion of the lots in any manner that violates this title is prohibited; and
 - c. Division of the lots in a manner that results in a nonconforming lot is prohibited.

B. Nonconforming uses.

1. If a lawfully established use of land exists that would not be allowed by this title, the use may be continued provided:
 - a. The nonconforming use is not enlarged, increased, or extended to occupy a greater area of land or space, except that a nonconforming use may be enlarged,

increased, or extended into any existing parts of the building it occupies, provided that the building was specifically designed and constructed to lawfully accommodate that use at the time of original construction;

- b. The nonconforming use is not moved in whole or in part to any portion of the lot;
 - c. The nonconforming use of land is not discontinued for any reason for a period of more than six months;
 - d. If the use is discontinued or abandoned for any reason for a period of six months, any subsequent use of land must conform to the regulations specified by this title; and
 - e. For purposes of calculating the six-month period, a use is discontinued or abandoned upon the occurrence of the first of any of the following events:
 - i. On the date when the use of land is vacated,
 - ii. On the date the use ceases to be actively involved in the sale of merchandise or the provision of services,
 - iii. On the date of termination of any lease or contract under which the nonconforming use has occupied the land, or
 - iv. On the date a request for final reading of water and power meters is made to the applicable utility provider.
 - f. Additional structures, buildings, or signs are prohibited on a lot with a nonconforming use.
2. A nonconforming use may be changed to a conditional use allowed in the applicable base zone if approved through a conditional use review. Once a conditional use occupies the site, the nonconforming rights are lost and a nonconforming use may not be re-established.
 3. The provisions of Section 18.50.040 do not grant an owner of a nonconforming use a vested right. The provisions of the section may be revised in a manner that does not change the rights granted by this section under this chapter.

C. Nonconforming development.

1. Where a lawful structure or development exists that could not be built under the terms of this title by reason of restrictions on lot area, lot coverage, height, required parking, landscaping, or other requirements, such structure or development may remain and its use continued provided it remains otherwise lawful and complies with the following:
 - a. The nonconforming structure or development may not be enlarged or altered in a way that increases its nonconformity;
 - b. If a nonconforming structure, development, or nonconforming portion of a structure or development is destroyed by any means to an extent of more than 60% of its current value as assessed by the Washington County assessor, reconstruction is prohibited except in conformity with this title. This prohibition

does not apply to small form residential development or regulated affordable housing that is destroyed by accident, such as by fire, flood, or earthquake; and

- c. If a structure or development is moved any distance for any reason, it must thereafter comply with all applicable development standards.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.50.050. Repairs and Maintenance.

- A. Routine repairs and maintenance. On any nonconforming structure or portion of a structure containing a nonconforming circumstance, normal repairs, or replacement of roofs, non-bearing walls, fixtures, wiring, or plumbing may be performed in a manner not in conflict with the provisions of this chapter.
- B. Restoration to safe condition. Nothing in this chapter prevents the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

(Ord. 17-22 §2; Ord. 18-23 §2)

CHAPTER 18.60 Use Categories

§ 18.60.010. Purpose.

This chapter classifies land uses and activities into use categories on the basis of common functional, product, or physical characteristics. Characteristics include the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and certain site factors. The use categories provide a systematic basis for assignment of present and future uses to zones. The decision to allow or prohibit the use categories in the various base zones is based on the goals and policies of the comprehensive plan.

(Ord. 10-15 §1)

§ 18.60.020. Classification of Uses.

A. Considerations.

1. The "Characteristics" subsection of each use category describes the characteristics of each use category. Uses are assigned to the category whose description most closely describes the nature of the primary use.
2. The following items are considered to determine what use category the use is in, and whether the activities constitute primary uses or accessory uses:
 - a. Description of the activities in relationship to the characteristics of each use category;
 - b. Relative amount of site or floor area and equipment devoted to the activities;
 - c. Relative amounts of sales from each activity;
 - d. Customer type for each activity;
 - e. Relative number of employees in each activity;
 - f. Hours of operation;
 - g. Site arrangement, including buildings and structures;
 - h. Vehicles used with the activities;
 - i. The relative number of vehicle trips generated by the activities;
 - j. Signs;
 - k. How the use advertises itself; and
 - l. Whether the activity would be likely to be found independent of the other activities on the site.
- B. Developments with multiple primary uses. When all of the primary uses of a development fall within one use category, then the development is assigned to that use category. When the primary uses of a development fall within different use categories, each primary use is classified in the applicable category and is subject to the regulations for that category.

- C. Accessory uses. The "Accessory Uses" subsection of each use category provides a list of common accessory uses associated with that use category. Accessory uses are allowed in conjunction with the use unless stated otherwise in the regulations. Also, unless otherwise stated, they are subject to the same regulations as the primary use.
- D. Use of examples. The "Examples" subsection of each use category provides a list of examples of uses that are included in the use category. The names of uses on the lists are generic. They are based on the common meaning of the terms and not on what a specific use may call itself. For example, a use whose business name is "Wholesale Liquidation" but that sells mostly to consumers, would be included in the Sales-Oriented Retail use category rather than the Wholesale and Equipment Rental use category. This is because the actual activity on the site matches the description of Sales-Oriented Retail use category.
- (Ord. 10-15 §1; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

§ 18.60.030. Unlisted Uses.

- A. Purpose. The purpose of these provisions is to establish a procedure for determining whether certain specific unlisted uses are allowed in a base zone and to which use category the unlisted use is most similar.
- B. Approval process. The Director will make a determination, using the process provided in Chapter 18.730, Director Determinations.
- C. Approval standards. The Director will make a determination of the most appropriate use category based on the following:
1. Whether the use is consistent with the intent and purpose of the applicable base zone;
 2. Whether the use is similar to and of the same general type as the use categories listed in the base zone;
 3. Whether the use has similar intensity, density, and off-site impacts as the use categories listed in the base zone, to be evaluated using the criteria provided in Paragraph 18.60.020.A.2; and
 4. Whether the use has similar impacts on the community facilities as the listed use categories. Community facilities include streets, schools, libraries, hospitals, parks, police and fire stations, and water, sanitary sewer and storm drainage systems.
- D. Other provisions. The Director will not authorize an omitted or unanticipated use in a base zone if the use category is specifically listed in another base zone as either an allowed use, restricted use, or a conditional use.

(Ord. 10-15 §1; Ord. 18-23 §2)

§ 18.60.040. Residential Use Category.

- A. Characteristics:
1. Residential use is the residential occupancy of a dwelling unit by related or unrelated individuals. The maximum number of residents who may occupy any given dwelling unit is determined by the state building code.
 2. Residential use also includes the occupancy of an institution or facility where the

components of a dwelling unit are shared by residents.

3. Residential occupancy is arranged on a month-to-month basis, at a minimum, or for longer periods of time.
 4. Residential use may include any combination of care, training, or treatment.
- B. Accessory uses: Accessory uses may include parking, recreational and social facilities, dining halls, and home occupations.
- C. Examples: Examples include household living, group living, foster homes, dormitories, fraternities and sororities, monasteries and convents, nursing and convalescent homes, memory care facilities, group homes for disabled individuals, residential treatment programs, assisted living facilities, and progressive or continuing care facilities.
- D. Exceptions:
1. Does not include uses meeting the definition of Temporary Shelter, Commercial Lodging, Detention Facility, or Medical Center.
 2. Does not include dormitories, fraternities, or sororities where accessory to College uses.

(Ord. 10-15 §1; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

§ 18.60.050. Civic Use Categories.

A. Basic Utilities.

1. Characteristics: Basic Utilities are infrastructure services that need to be located in or near where the service is provided. Service may be public or privately provided.
2. Accessory Uses: Accessory uses commonly found are parking; control, monitoring, data, or transmission equipment; and shelters.
3. Examples: Examples include water and sewer systems, telephone exchanges, power substations, and transit stations.
4. Exceptions:
 - a. Utility offices where employees or customers are generally present are classified as Office.
 - b. Bus barns are classified as Warehouse/Freight Movement.
 - c. Public or private passageways, including easements, for the express purpose of transmitting or transporting electricity, gas, oil, water, sewage, communication signals, or other similar services on a regional level are classified as Transportation/Utility Corridors.

B. Colleges.

1. Characteristics: Colleges are institutions of higher education leading to a general or specialized degree. They are certified by the State Board of Higher Education or by a recognized accrediting agency and tend to be in a campus like setting or on multiple blocks, with or without dormitories.

2. Accessory uses: Accessory uses commonly found include offices, housing for students, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, maintenance facilities, and supporting commercial facilities.
3. Examples: Examples include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, and seminaries.
4. Exceptions:
 - a. Does not include private, for-profit trade and vocational schools, which are classified as Personal Services.
 - b. Does not include public and private schools at the primary, elementary, middle, junior high, or high school level that provide state mandated basic education.

C. Community Services.

1. Characteristics: Community Services uses are public or non-profit recreational, social and multipurpose facilities of an indoor or outdoor nature.
2. Accessory uses: Accessory uses commonly found are parking, offices, athletic facilities, clubhouses, picnic shelters, maintenance facilities, and concessions.
3. Examples: Examples include community centers, senior centers, indoor and outdoor tennis, racquetball, and soccer clubs, indoor and outdoor swimming pools, parks, playgrounds, picnic areas, and golf courses.
4. Exceptions:
 - a. Does not include uses meeting the definition of Cultural Institutions.
 - b. Does not include multi-use trails, which are classified as Transportation/Utility Corridors.

D. Cultural Institutions.

1. Characteristics: Cultural Institutions are uses of a public or non-profit nature that engage in the cultural, intellectual, historical, scientific, or artistic enrichment of the public.
2. Accessory uses: Accessory uses commonly found are parking, gift shops, bookstores, limited food and beverage services, and classrooms.
3. Examples: Examples include libraries, museums, and galleries.
4. Exceptions:
 - a. Does not include uses meeting the definition of Schools or Colleges.
 - b. Does not include uses meeting the definition of Community Services.

E. Day Care.

1. Characteristics: Day Care is the provision of regular child care, with or without compensation, to 4 or more children by a person or person(s) who are not the child's parent, guardian, or person acting in place of the parent, in a facility meeting all state

requirements.

2. Accessory uses: Accessory uses commonly found are offices, play areas, and parking.
3. Examples: Examples include family day care, nursery schools, before-and-after school care facilities, and child development centers.
4. Exceptions: Does not include care given by the parents, guardians, or relatives of the children, or by babysitters.

F. Emergency Services.

1. Characteristics: Emergency Services are public safety facilities necessary for the protection of life and property.
2. Accessory uses: Accessory uses may include offices; meeting areas; parking; food preparation areas; transmission equipment; and temporary holding cells within a police station.
3. Examples: Examples include police and fire stations, emergency communications, and ambulance services.
4. Exceptions:
 - a. Does not include uses meeting the definition of Detention Facilities.
 - b. Does not include uses meeting the definition of Medical Centers.

G. Medical Centers.

1. Characteristics: Medical Centers are facilities providing inpatient, outpatient, emergency, or related ancillary services to the sick and infirm, and are usually developed in a campus setting or on multiple blocks.
2. Accessory uses: Accessory uses may include diagnostic and treatment facilities, laboratories, surgical suites, kitchen and food service facilities, laundry facilities, housekeeping facilities, maintenance facilities, administrative offices, and parking.
3. Examples: Examples include hospitals and medical complexes that include hospitals.
4. Exceptions:
 - a. Medical Centers may also include freestanding offices for hospital-based or private-practice physicians and other allied health care professionals; these medical office buildings are classified as Office.
 - b. Does not include uses meeting the definition of Emergency Services.

H. Postal Service.

1. Characteristics: Postal Service includes letter, periodical, and package delivery services traditionally operated by the United States Postal Service and for-profit entities such as United Parcel Service and Federal Express. Such facilities typically include customer sales, sorting facilities, and fleet truck loading and storage.
2. Accessory uses: Accessory uses commonly found are offices, parking, and storage

facilities.

3. Examples: Examples include U.S. Post Offices and parcel package distribution centers.

I. Religious Institutions.

1. Characteristics: Religious Institutions provide meeting space that is primarily used for religious worship.
2. Accessory uses: Accessory uses may include offices, classrooms, daycare, parking, social halls, recreational activities, and Temporary Shelter allowed as a temporary use under the provisions of Chapter 18.440, Temporary Uses.
3. Examples: Examples include churches, temples, synagogues, and mosques.

J. Schools.

1. Characteristics: Schools include public and private schools at the primary, elementary, middle, junior high, or high-school level that provide state mandated basic education.
2. Accessory uses: Accessory uses may include play areas, cafeterias, recreational and sports facilities, athletic fields, auditoriums, and before- or after-school daycare.
3. Examples: Examples include public and private daytime schools.
4. Exceptions:
 - a. Does not include preschools, which are classified as Day Care.
 - b. Does not include private, profit-making trade and vocational schools, which are classified as Personal Services.
 - c. Does not include uses meeting the definition of Colleges.

K. Social/FraternaL Clubs/Lodges.

1. Characteristics: Social/FraternaL Clubs/Lodges are non-profit organizations with social, philanthropic, or recreational functions and activities.
2. Accessory uses: Accessory uses commonly found are offices, auditoriums, parking, limited food and beverage service, and Temporary Shelter allowed as a temporary use under the provisions of Chapter 18.440, Temporary Uses.
3. Examples: Examples include Veterans of Foreign Wars posts, Elks Lodges, and Masonic Temples.

L. Temporary Shelter.

1. Characteristics: Temporary Shelter uses are operated by a public or non-profit agency and provide mass shelter or short-term housing where tenancy may be arranged for periods of less than one month. The use may also provide special counseling, education, or training of a public, nonprofit, or charitable nature.
2. Accessory uses: Accessory uses may include offices, meeting areas, food preparation

areas, parking, health and therapy areas, day care uses, and athletic facilities.

3. Examples: Examples include homeless shelters and shelters for women and children.

4. Exceptions:

a. Does not include for-profit lodging where tenancy may be arranged for periods less than one month, which is considered a hotel or motel use and is classified as Commercial Lodging.

b. Does not include uses meeting the definition of Residential Use.

c. Does not include residential uses meeting the definition of Detention Facilities.

(Ord. 10-15 §1; Ord. 15-05 §2; Ord. 18-23 §2; Ord. 20-01 §1)

§ 18.60.060. Commercial Use Categories.

A. Adult Entertainment.

1. Characteristics: Adult Entertainment includes uses characterized or distinguished by an emphasis on matters depicting specified sexual activities or anatomical areas.
2. Accessory uses: Accessory uses commonly found include parking.
3. Examples: Examples include adult motion picture theaters, adult book stores, and topless, bottomless, and nude taverns and dance halls.

B. Animal-Related Commercial.

1. Characteristics: Animal-Related Commercial uses are those engaged in breeding or boarding of normal household pets. Limited animal sales may or may not be part of the use.
2. Accessory uses: Accessory uses commonly found include parking, office space, and storage space.
3. Examples: Examples include animal breeders, kennels, and overnight boarding facilities.
4. Exceptions:
 - a. Facilities where the primary activity is animal sales are classified as Sales-Oriented Retail.
 - b. Does not include animal grooming, which is classified as Personal Services or Repair-Oriented Retail.
 - c. Does not include veterinary clinics, which are classified as Office.
 - d. Overnight boarding facilities for household pets when these facilities and all their activities, with the exception of parking, are completely enclosed within a building, are classified as Personal Services.

C. Bulk Sales.

1. Characteristics: Establishments engaging in the sales, leasing, and rental of bulky items requiring extensive interior space for display.
2. Accessory uses: Accessory uses commonly found include parking, office space, and storage space.
3. Examples: Examples include furniture, large appliances, and home improvement.
4. Exceptions:
 - a. Does not include uses meeting the definition of Outdoor Sales.
 - b. Does not include Motor Vehicle Sales/Rental.

D. Commercial Lodging.

1. Characteristics: Commercial Lodging includes for-profit residential facilities where tenancy is typically less than one month.
2. Accessory uses: Accessory uses commonly found are parking, restaurants and bars, meeting and convention facilities, and recreational facilities for guests such as pools and gym.
3. Examples: Examples include hotels, motels, rooming houses, and bed-and-breakfast establishments.
4. Exceptions: Does not include uses meeting the definition of Residential Use or Temporary Shelter.

E. Custom Arts and Crafts.

1. Characteristics: Establishments engaged in the on-site manufacture and sale of crafts, art, sculpture, pottery, stained glass, musical instruments, and similar items produced without the use of a mechanized assembly line or large-scale machinery. Typically, the business is operated by an artist or craftsperson who may or may not be supported by a small number of assistants.
2. Accessory uses: Accessory uses commonly found include showrooms, sales facilities, parking, office space, and storage space.
3. Examples: Examples include artisans and artists producing arts and crafts from materials such as wood, glass, fabric, fiber, and painted images on canvas or other portable materials.
4. Exceptions: Does not include uses where customers come to paint or assemble their own craft or artwork. Such uses are classified as Sales-Oriented Retail.

F. Eating and Drinking Establishments.

1. Characteristics: Eating and Drinking Establishments are characterized by the sale of prepared food and beverages for consumption on-site or take-away.
2. Accessory uses: Accessory uses commonly found are parking and outdoor seating areas.

3. Examples: Examples include restaurants, delicatessens, retail bakeries, taverns, brewpubs, and espresso bars.
4. Exceptions: Does not include grocery stores and convenience stores, which are classified as Sales-Oriented Retail.

G. Indoor Entertainment.

1. Characteristics: Indoor Entertainment consists of for-profit facilities providing active recreational uses of a primarily indoor nature.
2. Accessory uses: Accessory uses commonly found include parking, offices, limited retail, and concessions.
3. Examples: Examples include health/fitness clubs, tennis, racquetball and soccer centers, recreational centers, skating rinks, bowling alleys, arcades, shooting ranges, and movie theaters.
4. Exceptions: Does not include uses meeting the definition of Community Services or Cultural Institutions.

H. Major Event Entertainment.

1. Characteristics: Major Event Entertainment facilities are uses characterized by activities and structures that draw large numbers of people to specific events or shows. Activities are generally of a spectator nature.
2. Accessory uses: Accessory uses commonly found include parking, maintenance facilities, and concessions.
3. Examples: Examples include auditoriums, stadiums, convention centers, and race tracks.
4. Exceptions:
 - a. Does not include uses meeting the definition of Cultural Institutions.
 - b. Does not include movie theaters or playhouses, which are classified as Indoor Entertainment.

I. Motor Vehicle Sales/Rental.

1. Characteristics: Motor Vehicle Sales/Rental includes land uses involved in the sale, lease, or rental of cars, motorcycles, light and heavy trucks, mobile homes, boats, and recreational vehicles.
2. Accessory uses: Accessory uses commonly found include parking, auto repair and maintenance facilities, office space, and storage space.
3. Examples: Examples include auto dealerships, used car lots, and car rental facilities.

J. Motor Vehicle Servicing/Repair.

1. Characteristics: Motor Vehicle Serving/Repair includes freestanding vehicle servicing and repair establishments not accessory to new vehicle sales.

2. Accessory uses: Accessory uses commonly found include parking, office space, and storage space.
3. Examples: Examples include general service stations, quick oil-change facilities, car washes, and body shops.

K. Non-Accessory Parking.

1. Characteristics: Non-Accessory Parking is any public or private parking that is not accessory to a primary use. A fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee parking for people not connected to the use is also classified as Non-Accessory Parking.
2. Accessory uses: Accessory uses commonly found are a ticket booth to collect fees and house security personnel.
3. Examples: Examples include public and private structures and surface parking lots, freestanding fleet vehicle parking, commercial district shared parking lots, and transit park-and-ride lots.
4. Exceptions: Parking facilities accessory to a use, but that charge the public to park for occasional events nearby, are not classified as Non-Accessory Parking.

L. Office.

1. Characteristics: Office uses are characterized by activities conducted in an office setting that focus on the provision of goods and services, usually by professionals. Traditional Office uses are characterized by activities that generally focus on business, government, professional, medical, or financial services. Office uses may include activities that, while conducted in an office-like setting, are less consumer-oriented and focus on the support of off-site service personnel or in the development, testing, production, processing, packaging, or assembly of goods and products. Medical, dental, veterinary offices are out-patient clinics that provide healthcare to humans or animals, characterized by a professional or group of professionals assisted by support staff.
2. Accessory uses: Accessory uses commonly found are parking and storage facilities.
3. Examples: Examples include government offices; medical, dental, and veterinary clinics and laboratories; blood collection centers; professional offices for attorneys, architects, engineers, stockbrokers, insurance brokers, and other consultants; headquarters offices; sales offices; radio and television studios; administrative offices for painting, building, and landscaping contractors; and software development firms.
4. Exceptions:
 - a. Offices that are part of and are located within a firm in another use category are considered accessory to the firm's primary activity.
 - b. Contractors and others who perform services off-site are included in the Office use category if equipment and materials are incidental to the office use and their storage does not constitute 50 percent or more of occupied space; otherwise, they are classified as Industrial Services.

M. Outdoor Entertainment.

1. Characteristics: Outdoor Entertainment consists of for-profit facilities providing active recreational uses primarily in an out-of-doors setting.
2. Accessory uses: Accessory uses commonly found include parking, offices, clubhouses, and concessions.
3. Examples: Examples include outdoor tennis clubs, golf courses, and shooting ranges.
4. Exceptions: Does not include uses meeting the definition of Community Services.

N. Outdoor Sales.

1. Characteristics: Outdoor Sales are sales-oriented establishments requiring extensive outdoor or only partially-enclosed display or storage. These uses may be retail, wholesale, or a combination of the two.
2. Accessory uses: Accessory uses commonly found include parking and office space.
3. Examples: Examples include lumber yards and plant nurseries.
4. Exceptions:
 - a. Does not include Motor Vehicle Sales/Rental and Vehicle Fuel Sales.
 - b. Does not include outdoor dining areas for Eating and Drinking Establishments.
 - c. Does not include incidental and temporary outdoor activities such as Christmas tree lots, "sidewalk sales," and seasonal markets, which may be subject to regulation in Chapter 18.440, Temporary Uses.
 - d. Does not include limited outdoor or partially-enclosed display or storage areas that are clearly incidental and accessory to retail uses selling hardware and home improvement supplies.

O. Personal Services.

1. Characteristics: Personal Services are establishments that are oriented towards the provision of consumer services in a manner typically necessitating no more than one consumer visit per service transaction.
2. Accessory uses: Accessory uses commonly found include parking, office space, and storage space.
3. Examples: Examples include banks/credit unions, barber/beauty shops, self-serve pet grooming, laundromats, copy centers, photographic studios, trade/vocational schools, mortuaries, and beverage container redemption centers.
4. Exceptions:
 - a. Does not include Office.
 - b. Does not include Repair-Oriented Retail.
 - c. Does not include Motor Vehicle Servicing/Repair and Vehicle Fuel Sales.

P. Repair-Oriented Retail.

1. Characteristics: Repair-Oriented Retail are establishments providing product repair of consumer and business goods, and other consumer services that typically necessitate two or more consumer visits per service transaction.
2. Accessory uses: Accessory uses commonly found include parking, office space, workshop space, and storage.
3. Examples: Examples include televisions and radios, bicycles, clocks, jewelry, guns, small appliances, office equipment, tailors and seamstresses, shoe repair, locksmiths, upholsterers, photo and laundry drop-off, dry-cleaners, quick printing, drop-off pet grooming, and doggy-daycare.
4. Exceptions: Does not include Motor Vehicle Servicing/Repair.

Q. Sales-Oriented Retail.

1. Characteristics: Sales-Oriented Retail firms are involved in the sale, leasing, and rental of new or used products to the general public.
2. Accessory uses: Accessory uses commonly found include parking, office space, storage space, and temporary outdoor activities subject to regulation in Chapter 18.440, Temporary Uses.
3. Examples: Examples include art, art supplies, bicycles, clothing, dry goods, electronics, fabric, gifts, groceries, hardware, household products, jewelry, pets and pet products, pharmaceuticals, plants, printed materials, stationery, and printed and electronic media.
4. Exceptions:
 - a. Does not include uses meeting the definition of Bulk Sales.
 - b. Does not include uses meeting the definition of Outdoor Sales.
 - c. Does not include Motor Vehicle Sales/Rental and Vehicle Fuel Sales.

R. Self-Service Storage.

1. Characteristics: Commercial operations that provide rental of storage space to individuals or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property.
2. Accessory uses: Accessory uses commonly found include parking and office space.
3. Examples: Examples include single-story and multi-story facilities that provide individual storage areas for rent, often called mini-warehouses or self-storage facilities; and the storage of boats and recreational vehicles.
4. Exceptions:
 - a. Does not include moving and storage companies where there is no individual storage or where employees are primary movers of the goods to be stored. Such uses are classified as Warehouse/Freight Movement.

- b. Does not include the storage of fleet vehicles, which is classified as Non-Accessory Parking, or the storage of sales or rental inventory, which is classified as Motor Vehicle Sales/Rental.

S. Vehicle Fuel Sales.

1. Characteristics: Vehicle Fuel Sales includes establishments engaging in the sale of petroleum and non-petroleum based fuels for cars, motorcycles, trucks, recreational vehicles, and boats.
2. Accessory uses: Accessory uses commonly found include parking, office space, and storage space.
3. Examples: Examples include gas stations and electric vehicle charging stations.
4. Exceptions: Does not include electric vehicle charging stations that are accessory to an allowed use in an off-street parking area.

(Ord. 10-15 §1; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-09 §2)

§ 18.60.070. Industrial Use Categories.

A. General Industrial.

1. Characteristics: General Industrial includes the manufacturing, processing, and assembling of semi-finished or finished products from raw materials. All activities are contained within buildings, with some outside storage of raw materials.
2. Accessory uses: Accessory uses commonly include parking, office, and storage space.
3. Examples: Examples include food processing; breweries, distilleries and wineries; production of apparel or textiles; woodworking including cabinet makers; production of chemical, rubber, leather, clay, bone, plastic, stone or glass materials or products; manufacturing and production of large-scale machinery.
4. Exceptions:
 - a. Does not include uses meeting the definition of Custom Arts and Crafts.
 - b. Does not include the manufacture and production of goods from the composting of organic material, which is classified as Waste-Related.

B. Heavy Industrial.

1. Characteristics: Heavy Industrial includes the manufacturing, processing, and assembling of semi-finished or finished products from raw materials. A substantial portion of activities and storage may be undertaken outdoors with resulting noise, glare vibration, and other potentially adverse impacts.
2. Accessory uses: Accessory uses may include parking, office, storage, and maintenance facilities.
3. Examples: Examples include energy production facilities; concrete batching and asphalt mixing; production of metals or metal products including enameling and galvanizing; production of cars, trucks, recreational vehicles; or mobile homes.

4. Exceptions: Does not include energy production from the biological decomposition of organic materials, such uses are classified as Waste-Related.

C. Industrial Services.

1. Characteristics: Industrial Services are uses that repair and service industrial, business, or consumer machinery, equipment, products or by-products. Firms that service consumer goods do so by mainly providing centralized services for separate retail outlets. Includes contractors, building maintenance services, and similar uses that perform services off-site. Few customers, especially the general public, come to the site.
2. Accessory uses: Accessory uses may include offices, parking, storage, loading docks, and railroad lead and spur lines to allow the loading and unloading of rail cars.
3. Examples: Examples include welding shops; machine shops; repair shops for tools, scientific/professional instruments, and motors; sales, repair, storage, salvage, or wrecking of heavy machinery, metal and building materials; towing and vehicle storage; auto and truck salvage and wrecking; heavy truck servicing and repair; tire recapping and retreading; truck stops; building, heating, plumbing, or electrical contractors; printing, publishing, and lithography; exterminators; janitorial and building maintenance contractors; fuel oil distributions; solid fuel yards; laundry, dry-cleaning, and carpet cleaning plants; and photo-finishing laboratories.
4. Exceptions: Contractors and others who perform services off-site are included in the Office use category if equipment and materials storage does not constitute 50 percent or more of occupied space and fabrication or similar work is not carried out at the site.

D. Light Industrial.

1. Characteristics: Light Industrial includes the production, processing, assembling, packaging, or treatment of finished products from previously prepared materials or components. All activities and storage are contained within buildings.
2. Accessory uses: Accessory uses commonly include parking, office, and storage space.
3. Examples: Examples include the manufacturing and assembly of small-scale machinery, appliances, computers, and other electronic equipment; pharmaceuticals; scientific and musical instruments; art work, toys, and other precision goods; sign-making; and catering facilities.
4. Exceptions: Does not include uses meeting the definition of Custom Arts and Crafts.

E. Railroad Yards.

1. Characteristics: Railroad Yards are areas that contain multiple railroad tracks used for rail car switching, assembling of trains, and the transshipment of goods from other transportation modes to or from trains.
2. Accessory uses: Accessory uses may include offices, employee facilities, storage areas, and rail car maintenance and repair facilities.

F. Research and Development.

1. Characteristics: Research and Development includes facilities featuring a mix of uses including office, research laboratories, and prototype manufacturing.
2. Accessory Uses: Accessory uses may include parking, storage, and employee facilities.
3. Exceptions: If manufacturing is not present, it is classified as Office.

G. Warehouse/Freight Movement.

1. Characteristics: Warehouse/Freight Movement includes uses involved in the storage and movement of large quantities of materials or products for themselves or other firms. Goods are generally delivered to other firms for the final consumer, except for some will-call pickups. May occur indoors or outdoors, and usually associated with significant truck and rail traffic. There is little on-site sales activity with the customer present.
2. Accessory uses: Accessory uses may include offices, parking, fleet truck parking and maintenance area, storage, docks, rail spur or lead lines, and the repackaging of goods.
3. Examples: Examples include freestanding warehouses associated with retail furniture or appliance outlets; household moving and general freight storage; cold storage plants/frozen food lockers; weapon and ammunition storage; major wholesale distribution centers; truck, marine and air freight terminals; bus barns; grain terminals; and stockpiling of sand, gravel, bark dust, or other aggregate and landscaping materials.
4. Exceptions: Uses that involve the transfer or storage of solid or liquid wastes are classified as Waste-Related.

H. Waste-Related.

1. Characteristics: Waste-Related uses are characterized as uses that receive solid or liquid wastes from others for disposal onsite or for transfer to another location, uses that collect sanitary wastes, or uses that manufacture or produce goods from the biological decomposition of organic material. Waste-Related uses also include uses that receive hazardous wastes from others and are subject to state regulations regarding hazardous waste management.
2. Accessory uses: Accessory uses may include parking, recycling of materials, offices, and repacking and transshipment of by-products.
3. Examples: Examples include recycling/garbage transfer stations; landfills; waste composting, energy recovery, portable sanitary equipment storage and pumping, and sewage treatment plants.
4. Exceptions:
 - a. Infrastructure services that must be located in or near the area where the service is provided in order to function are classified as Basic Utilities. Examples include sewer pipes that serve a development or water re-use pipes and tanks, pump stations, and collection stations necessary for the water re-use that serve a

development or institution.

- b. The disposal of clean fill, as defined in OAR 340-093-0030, is not classified as Waste-Related.

I. Wholesale and Equipment Rental.

1. Characteristics: Wholesale and Equipment Rental is characterized by the sale, leasing, or rental of equipment or products primarily intended for industrial, institutional, or commercial users. The use emphasizes on-site sales or order taking, and often include display areas. The uses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.
2. Accessory uses: Accessory uses may include offices, product repair, warehouses, parking, and the repackaging of goods.
3. Examples: Examples include the sale or rental of machinery, equipment, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; mail order houses; and wholesalers of food, clothing, auto parts, and building hardware.
4. Exceptions:
 - a. Firms that engage primarily in sales to the general public are classified as Sales-Oriented Retail or Bulk Sales.
 - b. Firms that are primarily storing goods with little on-site business activity are classified as Warehouse/Freight Movement.

(Ord. 10-15 §1; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.60.080. Other Use Categories.

- A. Cemeteries.
 1. Characteristics: Cemeteries are facilities for the permanent storage of human remains.
 2. Accessory uses: Accessory uses may include chapels, mortuaries, offices, maintenance facilities, and parking.
- B. Detention Facilities.
 1. Characteristics: Detention Facilities are uses devoted to the judicially required detention, incarceration, or supervision of people.
 2. Accessory uses: Accessory uses include offices, recreational and health facilities, therapy facilities, maintenance facilities, and hobby and manufacturing facilities.
 3. Examples: Examples include prisons, jails, probation centers, juvenile detention homes, and related post-incarceration and half-way houses.
 4. Exceptions: Programs that provide care and training or treatment for psychiatric, alcohol, or drug problems, where patients are residents of the program, but where patients are not supervised by public safety personnel, are classified as Residential

Use or Medical Center.

C. Heliports.

1. Characteristics: Heliports are public or private facilities designed for the landing, departure, storage, and fueling of helicopters.
2. Accessory uses: Accessory uses may include offices, parking, maintenance, and fueling facilities.

D. Mining.

1. Characteristics: Mining is the extraction of mineral or aggregate resources from the ground for off-site use.
2. Accessory uses: Accessory uses may include office, parking, storage, sorting, and transfer facilities.
3. Examples: Examples include dredging or mining for sand or gravel, quarrying, and oil, gas, or geothermal drilling.

E. Transportation/Utility Corridors.

1. Characteristics: Transportation/Utility Corridors are regional corridors in public or private ownership, including easements, dedicated for the express use of rail lines; multi-use trails; abovegrade or underground power or communication lines; water, sewer, and storm sewer lines; or similar services.
2. Accessory uses: Accessory uses commonly found include trailhead improvements such as public restrooms and parking lots.
3. Examples: Examples include rail trunk and feeder lines; multi-use trails; regional electrical transmission lines; and regional gas and petroleum pipelines.
4. Exceptions:
 - a. Railroad lead and spur lines for delivery of rail cars to sites or for unloading of rail cars on specific sites are classified as accessory to the primary use of the site.
 - b. Transportation/Utility Corridors contained within motor vehicle rights-of-way are not included.
 - c. Does not include Railroad Yards.

F. Wireless Communications Facilities.

1. Characteristics: Wireless Communication Facilities includes all devices, equipment, machinery, structures, and supporting elements necessary to produce electromagnetic radiation to produce a discrete wireless signal or message. Towers may be self-supporting, guyed, or mounted on poles or buildings.
2. Accessory uses: Accessory uses commonly includes related ancillary equipment structures.

3. Examples: Examples include television and AM/FM radio transmission towers, microwave relay stations, and cellular communications equipment.

4. Exceptions:

a. Does not include transmission facilities that are part of the public safety network, which are classified as Basic Utilities or Emergency Services.

b. Does not include amateur (ham) radio antennas or towers.

c. Does not include radio and television studios, which are classified as Office.

(Ord. 10-15 §1; Ord. 15-05 §2; Ord. 18-23 §2; Ord. 20-01 §1; Ord. 22-09 §2)

**Part 18.100
BASE ZONES**

**CHAPTER 18.110
Residential Zones**

§ 18.110.010. Purpose.

The purpose of this chapter is to implement the policies of the comprehensive plan related to housing by:

- A. Creating an environment in which construction of a full range of owner-occupied and rental housing at affordable prices is encouraged;
- B. Providing residential zones of varying densities, with flexible design and development standards to encourage innovation and reduce housing costs;
- C. Accommodating compatible nonresidential development—including, but not limited to, schools, churches, parks, recreation facilities, day care centers, and neighborhood commercial uses and services—at appropriate locations and scales; and
- D. Enhancing the livability of neighborhoods by encouraging diversity in housing stock and promoting opportunities for walkability.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.110.020. List of Base Zones.

The residential base zones are listed in Table 18.110.1. When this title refers to the residential zones, it is referring to the five base zones listed here.

Table 18.110.1
List of Base Zones

RES-A
RES-B
RES-C
RES-D
RES-E

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.110.030. Land Use Standards.

- A. General provisions. A list of allowed, restricted, conditional, and prohibited uses in residential zones is provided in Table 18.110.2. If a use category is not listed, see Section 18.60.030.
 - 1. Allowed (A). Uses that are allowed, subject to all of the applicable provisions of this title.
 - 2. Restricted (R). Uses that are allowed provided they are in compliance with special

requirements, exceptions, or restrictions.

3. Conditional (C). Uses that require the approval of the Hearings Officer using discretionary criteria. The approval process and criteria are provided in Chapter 18.740, Conditional Use.
4. Prohibited (P). Uses that are not allowed under any circumstance.

Table 18.110.2
Use Table

Use Categories	RES-A	RES-B	RES-C	RES-D	RES-E
Residential Use Category					
Residential Use	A	A	A	A	A
Civic / Institutional Use Categories					
Basic Utilities [1]	C	C	C	C	C
Colleges	C	C	C	C	C
Community Services	C	C	C	C	C
Cultural Institutions	P	C	C	C	P
Day Care [2]	A/C	A/C	A/C	A/C	A/C
Emergency Services	C	C	C	P	P
Medical Centers	P	C	C	C	C
Postal Service	P	P	P	P	P
Religious Institutions	C	C	C	C	C
Schools [3]	C	C	C	C	C
Social/FraternaL Clubs/Lodges	P	P	P	C	C
Temporary Shelter	P	P	P	C	C
Commercial Use Categories					
Adult Entertainment	P	P	P	P	P
Animal-Related Commercial	P	P	P	P	P
Bulk Sales	P	P	P	P	P
Commercial Lodging	P	P	P	P	P

**Table 18.110.2
Use Table**

Use Categories	RES-A	RES-B	RES-C	RES-D	RES-E
Custom Arts and Crafts	P	P	P	P	P
Eating and Drinking Establishments	P	P	P	P	P
Indoor Entertainment	P	P	P	P	P
Major Event Entertainment [4]	C	C	C	C	C
Motor Vehicle Sales/Rental	P	P	P	P	P
Motor Vehicle Servicing/Repair	P	P	P	P	P
Non-Accessory Parking	P	P	P	C[5]	C[5]
Office	P	P	P	P	P
Outdoor Entertainment	P	P	P	P	P
Outdoor Sales	P	P	P	P	P
Personal Services	P	P	P	P	R[6]
Repair-Oriented Retail	P	P	P	P	R[6]
Sales-Oriented Retail	P	P	P	P	R[6]
Self-Service Storage	P	P	P	P	P
Vehicle Fuel Sales	P	P	P	P	P
Industrial Use Categories					
General Industrial	P	P	P	P	P
Heavy Industrial	P	P	P	P	P
Industrial Services	P	P	P	P	P
Light Industrial	P	P	P	P	P

Table 18.110.2 Use Table					
Use Categories	RES-A	RES-B	RES-C	RES-D	RES-E
Railroad Yards	P	P	P	P	P
Research and Development	P	P	P	P	P
Warehouse/ Freight Movement	P	P	P	P	P
Waste-Related	P	P	P	P	P
Wholesale and Equipment Rental	P	P	P	P	P
Other Use Categories					
Cemeteries	P	C	C	P	P
Detention Facilities	P	P	P	P	P
Heliports	P	P	P	P	P
Mining	P	P	P	P	P
Transportation/ Utility Corridors	C	C	C	C	C
Wireless Communication Facilities [7]	A/R	A/R	A/R	A/R	A/R

Notes:

A=Allowed R=Restricted C=Conditional Use P=Prohibited

- [1] Above-ground public and private utility facilities proposed with development and underground public and private utility facilities are allowed. Standalone above-ground public and private utility facilities not proposed with development are allowed conditionally.
- [2] Family day care is allowed. Other day care uses are allowed conditionally.
- [3] School bus parking on public high school sites is allowed as an accessory use if located a minimum of 200 feet from the nearest property line of a residential use.
- [4] Allowed conditionally on public school sites.
- [5] Only park-and-ride and other transit-related facilities are allowed conditionally.

Notes:

[6]

Limited to first story of apartment developments and maximum square footage of 10% of the building. Developments utilizing this provision are considered residential development, not mixed-use development, for the purposes of this title.

[7]

See Chapter 18.450, Wireless Communication Facilities, for requirements.

- B. Development standards. The standards for residential development in residential zones are located in the applicable housing type chapter in 18.200 Residential Development Standards. The standards for nonresidential development in residential zones are located in Chapter 18.350, Residential Zone Development Standards, and the applicable plan district chapter, if any.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-09 §2)

§ 18.110.040. Housing Types.

- A. A housing type is not a use category. It describes a type of development that can contain a Residential Use.
- B. A list of allowed, limited, and prohibited housing types in residential zones is provided in Table 18.110.3. Terms and abbreviations used are defined as follows:
 - 1. Yes, allowed (Y). Housing types that are allowed.
 - 2. Limited (L). Housing types that require a conditional use approval or are allowed subject to specific limitations.
 - 3. No, prohibited (N). Housing types that are not allowed under any circumstance.
- C. Housing types that are allowed or allowed on a limited basis are subject to the standards and provisions of the applicable development standards chapter, which is indicated in parentheses in the first column of Table 18.110.3.
- D. All allowed housing types may be built on site or brought to the site as a manufactured home.

Table 18.110.3
Housing Types

Housing Types	RES-A	RES-B	RES-C	RES-D	RES-E
Accessory Dwelling Units (18.220)	Y	Y	Y	Y	N
Apartments (18.230)	N	N	N	Y	Y
Cottage Clusters (18.240)	Y	Y	Y	Y	N

Table 18.110.3
Housing Types

Housing Types	RES-A	RES-B	RES-C	RES-D	RES-E
Courtyard Units (18.250)	Y	Y	Y	Y	N
Mobile Home Parks (18.260)	N	L[1]	Y	Y	Y
Quads (18.270)	Y	Y	Y	Y	N
Rowhouses (18.280)	L[2]	L[2]	L[2]	Y	Y
Small Form Residential (18.290)	Y	Y	Y	Y	N

Notes:

Y=Yes, Allowed L=Limited, see footnotes N=No, Prohibited

[1] Allowed only through a conditional use application.

[2] Rowhouses of up to 5 units per grouping allowed.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

CHAPTER 18.120 **Commercial Zones**

§ 18.120.010. Purpose.

The purpose of this chapter is to implement the goals and policies of the comprehensive plan related to land use planning and economic development by:

- A. Ensuring that a full range of goods and services are available throughout the city so that residents can fulfill all or most of their needs within easy driving distance and, ideally, within easy walking and biking distance of their homes;
- B. Ensuring that a full range of economic activities and job opportunities are available throughout the city; and
- C. Minimizing the potential adverse impacts of commercial uses on residential uses by carefully locating and selecting the types of uses allowed in each commercial zone.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.120.020. List of Base Zones.

- A. C-N: Neighborhood Commercial zone. The C-N zone is designed to provide convenience goods and services within a small cluster of stores adjacent to residential neighborhoods. Convenience goods and services are those that are purchased frequently, meaning at least weekly; for which comparison buying is not required; and that can be sustained in a limited trade area. Such uses include convenience markets, personal services, and repair shops. A limited number of other uses, including but not limited to gas stations, medical centers, religious institutions, park-and-ride lots, and uses with drive-through services, are allowed conditionally.
- B. C-C: Community Commercial zone. The C-C zone is designed to provide convenience shopping facilities that meet the regular needs of nearby residential neighborhoods. With a service area of about 1.5 miles, such commercial centers typically range in size from 30,000—100,000 square feet on sites ranging from 2 to 8 acres. Separated from other commercially-zoned areas by at least 0.5 miles, community commercial centers are intended to serve several residential neighborhoods, ideally at the intersection of two or more collector streets or at the intersection of an arterial and collector street. A limited number of other uses, including but not limited to gas stations, medical centers, religious institutions, park-and-ride lots, and uses with drive-through services, are allowed conditionally.
- C. C-G: General Commercial zone. The C-G zone is designed to accommodate a full range of retail, office, and civic uses with a citywide and even regional trade area. Except where nonconforming, residential uses are limited to mixed-use developments. A wide range of uses, including but not limited to adult entertainment, automotive equipment repair and storage, mini-warehouses, utilities, heliports, medical centers, major event entertainment, and gasoline stations, are allowed conditionally.
- D. C-P: Professional/Administrative Commercial zone. The C-P zone is designed to accommodate civic and professional services and compatible support services, for example convenience retail, personal services, and restaurants, in close proximity to residential areas and major transportation facilities. Heliports, medical centers, religious institutions, and

utilities are allowed conditionally. Developments in the C-P zone are intended to serve as a buffer between residential areas and more intensive commercial and industrial areas.

- E. MU-CBD: Mixed-Use Central Business District zone. The MU-CBD zone is designed to provide a pedestrian-friendly urban village in downtown Tigard. A wide variety of commercial, civic, employment, mixed-use, apartments, and rowhouses are allowed.
- F. MUE: Mixed-Use Employment zone. The MUE zone is designed to accommodate a wide range of uses including major retail goods and services, business and professional offices, civic uses, and apartments.
- G. MUE-1 and MUE-2: Mixed-Use Employment 1 and 2 zone. The MUE-1 and 2 zones are designed to apply to areas where employment uses such as office, research and development, and light manufacturing are concentrated. Commercial and retail support uses are allowed but are limited, and residential uses are allowed that are compatible with the employment character of the area. Lincoln Center is an example of an area designated MUE-1, a high-density mixed-use employment zone. The Nimbus area is an example of an area designated MUE-2, requiring more moderate densities.
- H. MUC: Mixed-Use Commercial zone. The MUC zone includes land around the Washington Square Mall and land immediately west of Highway 217. Primary uses allowed include office buildings, retail, and service uses. Also allowed are mixed-use developments and housing at densities of 50 units per acre. Larger buildings are encouraged in this area with parking under, behind, or to the sides of buildings.
- I. MUC-1: Mixed-Use Commercial 1 zone. The MUC-1 zone, which is designed to apply to that portion of Bridgeport Village (formerly known as the Durham Quarry site) within the City of Tigard, is a mixed-use commercial zone bounded by 72nd Avenue, Findlay Street, and the Tigard, Tualatin and Durham city limits. This site is the subject of an intergovernmental agreement between the cities of Tigard and Tualatin. Pursuant to that agreement the City of Tualatin will furnish all planning, building, and associated development review and permit services for the site. This zone is intended to mirror the City of Tualatin's Mixed-Use Commercial Overlay District in Tualatin Development Code, Chapter 57. It permits a wide range of uses including commercial lodging, general retail, offices, and housing. Additional uses, including but not limited to major event entertainment and motor vehicle retail fuel sales, are allowed conditionally.
- J. MUR-1 and MUR-2: Mixed-Use Residential 1 and 2 zone. The MUR-1 and MUR-2 zones are designed to apply to predominantly residential areas where mixed-uses are allowed when compatible with the residential use. A high-density (MUR-1) and moderate-density (MUR-2) designation is available within the MUR zone.
- K. TMU: Triangle Mixed-Use zone. The TMU zone applies to most land within the Tigard Triangle, a regional Town Center bounded by Pacific Highway, Highway 217, and Interstate 5. The TMU zone is intended to be an active, urban, multimodal, and mixed-use district that accommodates a variety of housing options and uses, promotes pedestrian-oriented development, and limits new auto-oriented development.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.120.030. Land Use Standards.

- A. General provisions. A list of allowed, restricted, conditional, and prohibited uses in

commercial zones is provided in Table 18.120.1, except for uses in the TMU zone, which are provided in Chapter 18.660, Tigard Triangle Plan District. If a use category is not listed, see Section 18.60.030.

1. Allowed (A). Uses that are allowed, subject to all of the applicable provisions of this title.
 2. Restricted (R). Uses that are allowed provided they are in compliance with special requirements, exceptions, or restrictions.
 3. Conditional (C). Uses that require the approval of the Hearings Officer using discretionary criteria. The approval process and criteria are provided in Chapter 18.740, Conditional Uses.
 4. Prohibited (P). Uses that are not allowed under any circumstance.
- B. Use restrictions. All allowed, restricted, and conditional uses in the C-N and C-C zones are subject to additional land use restrictions in Section 18.120.040.
- C. Development standards. The standards for residential development in commercial zones are located in the applicable housing type chapter in 18.200 Residential Development Standards. The standards for nonresidential development in commercial zones—including mixed-use development with or without a residential component—are located in Chapter 18.320, Commercial Zone Development Standards, and the applicable plan district chapter, if any.

Table 18.120.1
Commercial Zone Use Standards

Use Categories	C-N [1]	C-C [1]	C-G	C-P	MU-CBD [2]	UE	MUC-1	MUC	MUE 1 and 2	MUR 1 and 2
Residential Use Category										
Residential Use	R [3]	R [3]	R [3,4]	P	A	A	A	A	A	A
Civic / Institutional Use Categories										
Basic Utilities [5]	A/C	A/C	A/C	A/C	A/C	A/C	A/C	A/C	A/C	A/C
Colleges	P	P	P	P	A	C	C	C	C	C
Community Services	A	A	P	P	A	C	P	A	C	C
Cultural Institutions	A	A	A	A	A	A	A	A	A	P
Day Care	A	A	A	A	A	A	A	A	A	A/C [6]
Emergency Services	A	A	A	A	A	A	A	A	A	P
Medical Centers	C	C	C	C	C	C	C	C	C	C
Postal Service	A	A	A	A	A	A	A	A	A	P
Religious Institutions	A	A	A	A	A	A	A	A	A	C
Schools	P	P	P	P	A	C	C	C	C	C
Social/FraternaL Clubs/Lodges	A	A	A	A	A	A	A	A	A	C
Temporary Shelter	P	P	C	P	C	P	C	C	C	C

Table 18.120.1
Commercial Zone Use Standards

Use Categories	C-N [1]	C-C [1]	C-G	C-P	MU-CBD [2]	UE	MUC-1	MUC	MUE 1 and 2	MUR 1 and 2
Commercial Use Categories										
Adult Entertainment	P	P	C	P	P	P	P	C	P	P
Animal-Related Commercial	P	P	P	P	P	A	A	P	P	P
Bulk Sales	P	P	A	P	A/P[7]	A	R [8]	R [9]	R [9]	P
Commercial Lodging	P	P	A	A	A	A	A	A	A	P
Custom Arts and Crafts	R [10]	R [10]	P	P	R [10]	P	P	P	P	P
Eating and Drinking Establishments	A	A	A	R [11]	A	A	A	A	A	R [12]
Indoor Entertainment	A	A	A	A	A	A	A	A	A	P
Major Event Entertainment	P	P	C	P	C	P	C	C	P	P
Motor Vehicle Sales/Rental	P	P	A/C [13]	P	A/P [7]	P	P	R [14]	R [14]	P
Motor Vehicle Servicing/Repair [15]	C [16]	C [16]	A	P	C	R [8]	R [8]	P	P	P
Non-Accessory Parking	C	C	A	A	A	A	A	A	A	P
Office	A	A	A	A	A	A	A	A	A	R [12]

Table 18.120.1
Commercial Zone Use Standards

Use Categories	C-N [1]	C-C [1]	C-G	C-P	MU-CBD [2]	UE	MUC-1	MUC	MUE 1 and 2	MUR 1 and 2
Outdoor Entertainment	P	P	A	A	C	P	P	C	P	P
Outdoor Sales	P	P	A	P	P	P	P	P	P	P
Personal Services	A	A	A	A	A	A	R [8]	A	R [9]	R [12]
Repair-Oriented Retail	A	A	A	A	A	A	R [8]	R [9]	R [9]	P
Sales-Oriented Retail	A	A	A	R [11]	A/ R [17]	A/ R [18]	R [8]	A	R [9]	R [12]
Self-Service Storage	P	P	C	P	A/P[7]	P	P	P	P	P
Vehicle Fuel Sales	C	C	C	P	A/P [7]	P	C	C	C	P

Industrial Use Categories

General Industrial	P	P	P	P	P	P	P	P	P	P
Heavy Industrial	P	P	P	P	P	P	P	P	P	P
Industrial Services	P	P	P	P	P	P	P	P	P	P
Light Industrial	P	P	P	P	P	R [15]	P	P	R [15]	P
Railroad Yards	P	P	P	P	P	P	P	P	P	P
Research and Development	P	P	P	P	C	R [14]	R [14]	P	R [15]	P

Table 18.120.1
Commercial Zone Use Standards

Use Categories	C-N [1]	C-C [1]	C-G	C-P	MU-CBD [2]	UE	MUC-1	MUC	MUE 1 and 2	MUR 1 and 2
Warehouse/ Freight Movement	P	P	P	P	P	R [14]	P	P	R [14,15]	P
Waste-Related	P	P	P	P	P	P	P	P	P	P
Wholesale and Equipment Rental	P	P	P	P	P	P	P	P	R [14,15]	P
Other Use Categories										
Cemeteries	P	P	P	P	P	P	P	P	P	P
Detention Facilities	P	P	C	P	C	P	P	P	P	P
Heliports	P	P	C	C	P	P	P	P	P	P
Mining	P	P	P	P	P	P	P	P	P	P
Transportation/ Utility Corridors	A	A	A	A	A	A	A	A	A	A
Wireless Communication Facilities [19]	A/ R	A/ R	A/ R	A/ R	A/ R	A/ R	A/ R	A/ R	A/ R	A/ R

Notes:

A=Allowed R=Restricted C=Conditional Use P=Prohibited

[1]	See Section 18.120.040 for additional land use restrictions.
[2]	Uses with drive-through services that were lawfully in existence prior to the adoption of the MU-CBD zone are allowed. All new uses with drive-through services are prohibited.

Notes:

[3]	Residential uses are allowed on or above the second story of a mixed-use development where the first story contains an allowed commercial use.
[4]	Small form residential development is allowed where it is located on the same site with an allowed or conditional use and is occupied exclusively by a caretaker or superintendent of the allowed or conditional use.
[5]	Above-ground public and private utility facilities proposed with development and underground public and private utility facilities are allowed. Standalone above-ground public and private utility facilities not proposed with development are allowed conditionally.
[6]	Family day care is allowed. Other day care uses are allowed conditionally.
[7]	Uses that were lawfully in existence prior to the adoption of the MU-CBD zone are allowed. All new uses are prohibited.
[8]	The maximum allowed gross floor area is 60,000 square feet per building or tenant.
[9]	The maximum allowed gross floor area is 60,000 square feet per use for uses proposed after the adoption of the MUC, MUE-1, and MUE-2 zones.
[10]	The maximum area allowed for production is 500 square feet per building or tenant.
[11]	The maximum allowed combined area of sales-oriented retail and eating and drinking establishments is 20% of the gross floor area of the other uses allowed by right on the premises.
[12]	Uses must be within a mixed-use development. Uses may occupy a maximum of 50% of the total gross floor area within the mixed-use development only when minimum residential densities are met. Properties that were zoned commercial prior to March 28, 2002 are exempt from this requirement. These properties, or lots created from these properties, may develop as a single-use commercial development. The tax assessor map numbers for exempt properties are as follows: 1S135AA-00400, 1S135AA-01400, 1S135AA-01900, 1S135AA-01901, 1S135DA-02000, 1S135AA-02500, 1S13AA-02600, 1S135AA-02700, 1S135DA-01900, and 1S1DA-02000.
[13]	Sales or rental of heavy vehicles or farm equipment is allowed conditionally.
[14]	Uses allowed only as accessory uses to allowed uses where contained in the same structure and less than the gross floor area of the allowed use, except for motor vehicle sales/ rental which is allowed as a primary use in specific locations as provided in Subsection 18.670.020.C.
[15]	All use activities must be contained inside a structure except for employee and customer parking.
[16]	Only motor vehicle cleaning is allowed.

Notes:

[17]	The maximum allowed gross floor area is 60,000 square feet per building or tenant in all MU-CBD subareas except the 99W-Hall subarea as shown on Map 18.650.A.
[18]	The maximum allowed gross floor area is 30,000 square feet per building or tenant where the site is more than three acres in size. One additional square foot of floor area is allowed for each four square feet of floor area occupied or designed for an allowed use other than a sales-oriented retail use.
[19]	See Chapter 18.450, Wireless Communication Facilities, for a description of allowed and restricted facilities.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-09 §2)

§ 18.120.040. Land Use Restrictions.

The following restrictions apply to all uses in the C-N and C-C zones:

- A. Uses must be contained inside a structure except for the following accessory uses:
 1. Parking and loading areas;
 2. Day care outdoor play areas;
 3. Dining or drinking areas where associated with an allowed Eating and Drinking Establishment or Sales-Oriented Retail use; or
 4. Sale, display, or storage of horticultural and food merchandise where limited to a maximum area of 5 percent of the gross floor area of the primary use.
- B. Uses with drive-through services or operating before 6 a.m. or after 11 p.m. are allowed conditionally.
- C. Each use is allowed a maximum gross floor area of 5,000 square feet per building or tenant except for the following uses:
 1. Sales-Oriented Retail uses primarily involved in the sale of food and beverages are allowed a maximum gross floor area of 40,000 square feet per building or tenant; and
 2. All other Sales-Oriented Retail uses are allowed a maximum gross floor area of 10,000 square feet per building or tenant.

(Ord. 18-28 §1)

§ 18.120.050. Housing Types.

- A. A housing type is not a use category. It describes a type of development that can contain a Residential Use.
- B. A list of allowed, limited, and prohibited housing types in commercial zones is provided in Table 18.120.2. Commercial zones that do not allow any residential uses or allow them only in a mixed-use development are not included in the table. Terms and abbreviations used are defined as follows:
 1. Yes, allowed (Y). Housing types that are allowed.
 2. Limited (L). Housing types that require a conditional use approval or are allowed subject to specific limitations.
 3. No, prohibited (N). Housing types that are not allowed under any circumstance.
- C. Housing types that are allowed or allowed on a limited basis are subject to the standards and provisions of the applicable development standards chapter or applicable plan district chapter, if any. The applicable development standards chapter for each housing type is indicated in parentheses in the first column of Table 18.120.2.
- D. All allowed housing types may be built on site or brought to the site as a manufactured

home.

Table 18.120.2
Commercial Zone Housing Types

Housing Types	C-G	MU-CBD	MUE	MUC-1	MUC	MUE 1 and 2	MUR 1 and 2
Accessory Dwelling Units (18.220)	N	N	N	N	L[1]	L[1]	L[1]
Apartments (18.230)	N	Y	Y	Y	Y	Y	Y
Cottage Clusters (18.240)	N	N	N	N	N	N	Y
Courtyard Units (18.250)	N	N	N	N	N	N	Y
Mobile Home Parks (18.260)	N	L[2]	N	Y	L[3]	L[3]	L[3]
Quads (18.270)	N	N	N	N	N	N	Y
Rowhouses (18.280)	N	Y	L[5]	Y	L[3]	L[3]	Y
Small Form Residential (18.290)	L[4]	N	L[5]	N	L[3]	L[3]	L[3]

Notes:

Y=Yes, Allowed L=Limited, See Footnotes N=No, Prohibited

- [1] Accessory dwelling units are only allowed on sites with pre-existing small form residential development.
- [2] Mobile home parks that were lawfully in existence prior to the adoption of the MU-CBD zone are allowed. All new mobile home parks are prohibited.
- [3] Mobile home parks, small form residential, and rowhouses that were lawfully in existence prior to the adoption of the Washington Square Regional Center Plan District are allowed. Conversion of preexisting mobile home parks, small form residential, or rowhouses to other housing types or uses is subject to the requirements of Chapter 18.670, Washington Square Regional Center Plan District.

Notes:

[4]

Small form residential development is allowed where it is located on the same site with an allowed or conditional use and is occupied exclusively by a caretaker or superintendent of the allowed or conditional use.

[5]

Pre-existing small form residential and rowhouses are allowed. All new small form residential and rowhouses are prohibited.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

CHAPTER 18.130 **Industrial Zones**

§ 18.130.010. Purpose.

The purpose of this chapter is to implement the goals and policies of the comprehensive plan related to land use planning and economic development by:

- A. Ensuring that a full range of economic activities and job opportunities are available throughout the city; and
- B. Minimizing the potential adverse impacts of industrial uses on nonindustrial uses by carefully locating and selecting the types of uses allowed in each industrial zone.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.130.020. List of Base Zones.

- A. I-P: Industrial Park zone. The I-P zone provides appropriate locations for combining light manufacturing, office, and small-scale commercial uses, such as restaurants, personal services, and fitness centers, in a campus-like setting with no nuisance characteristics such as noise, glare, odor, or vibration.
- B. I-L: Light Industrial zone. The I-L zone provides appropriate locations for general industrial uses including, but not limited to: industrial services, manufacturing and production, research and development, warehousing and freight movement, and wholesale sales activities with few, if any, nuisance characteristics such as noise, glare, odor, or vibration.
- C. I-H: Heavy Industrial zone. The I-H zone provides appropriate locations for intensive industrial uses including industrial service, manufacturing and production, research and development, warehousing and freight movement, railroad yards, waste-related businesses, and wholesale sales activities. Activities in the I-H zone include those that involve the use of raw materials, require significant outdoor storage, or generate heavy truck or rail traffic.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.130.030. Land Use Standards.

- A. General Provisions. A list of allowed, restricted, conditional, and prohibited uses in industrial zones is provided in Table 18.130.1. If a use category is not listed, see Section 18.60.030.
 - 1. Allowed (A). Uses that are allowed, subject to all of the applicable provisions of this title.
 - 2. Restricted (R). Uses that are allowed provided they are in compliance with special requirements, exceptions, or restrictions.
 - 3. Conditional (C). Uses that require the approval of the Hearings Officer using discretionary criteria. The approval process and criteria are provided in Chapter 18.740, Conditional Uses.
 - 4. Prohibited (P). Uses that are not allowed under any circumstance.

- B. Use restrictions. Day care and commercial lodging uses are subject to additional land use restrictions in Section 18.130.040.
- C. Development standards. The standards for nonresidential development in industrial zones are located in Chapter 18.330, Industrial Zone Development Standards, and the applicable plan district chapter, if any.

Table 18.130.1 Industrial Zone Use Standards			
Use Categories	I-P	I-L	I-H
<i>Residential Use Category</i>			
Residential Use [1]	R	R	R
<i>Civic / Institutional Use Categories</i>			
Basic Utilities	C[2]	C[2]	A
Colleges	P	P	P
Community Services [3]	C	C	C
Cultural Institutions	P	P	P
Day Care [4]	R	R	R
Emergency Services	A	A	A
Medical Centers	P	P	P
Postal Service	A	A	A
Religious Institutions	P	P	P
Schools	P	P	P
Social/Fratalnal Clubs/Lodges	P	P	P
Temporary Shelter	P	P	P
<i>Commercial Use Categories</i>			
Adult Entertainment	P	P	P
Animal-Related Commercial	A	A	A
Bulk Sales	R [5][6]	P	P
Commercial Lodging	R [7]	P	P
Custom Arts and Crafts	P	P	P
Eating and Drinking Establishments	R [8]	P	P
Indoor Entertainment	A	P	P
Major Event Entertainment	P	P	P

Table 18.130.1
Industrial Zone Use Standards

Use Categories	I-P	I-L	I-H
Motor Vehicle Sales/ Rental	R [5][9][10]	A	A
Motor Vehicle Servicing/Repair	C	A	A
Non-Accessory Parking	A	A	A
Office	A	P	P
Outdoor Entertainment	A	P	P
Outdoor Sales	P	A	A
Personal Services	R [8]	P	P
Repair-Oriented Retail	A	P	P
Sales-Oriented Retail	R [8]	P	P
Self-Service Storage	A	A	A
Vehicle Fuel Sales	A	A/C [11]	A
<i>Industrial Use Categories</i>			
General Industrial	P	A	A
Heavy Industrial	P	P	A
Industrial Services	R [5]	A	A
Light Industrial	A	A	A
Railroad Yards	P	P	A
Research and Development	A	A	A
Warehouse/Freight Movement	P	A	A
Waste-Related	P	P	A
Wholesale and Equipment Rental	R [5]	A	A
<i>Other Use Categories</i>			
Cemeteries	P	C	P
Detention Facilities	C	P	C
Heliports	C	C	C
Mining	P	P	A

Table 18.130.1 Industrial Zone Use Standards			
Use Categories	I-P	I-L	I-H
Wireless Communication Facilities	A/R [12]	A	A
Transportation/Utility Corridors	A	A	A

Notes:

A=Allowed R=Restricted C=Conditional Use P=Prohibited

- [1] A single detached house is allowed where it is located on the same site as the allowed use and is occupied exclusively by the caretaker, or kennel owner or operator, and family.
- [2] Above-ground public and private utility facilities proposed with development and underground public and private utility facilities are allowed. Standalone above-ground public and private utility facilities not proposed with development are allowed conditionally.
- [3] Limited to outdoor recreation on: (1) land classified as special flood hazard area, when the recreational use does not otherwise preclude future cut and fill as needed to support industrial zone development outside the special flood hazard area; and (2) land located outside the special flood hazard area, when the recreational use is temporary and does not otherwise preclude allowed or conditional uses.
- [4] Family day care is allowed. Other day care uses are subject to additional land use restrictions in Subsection 18.130.040.A.
- [5] All use activities must be contained inside a structure except for employee and customer parking.
- [6] Bulk Sales are only allowed in the I-P zone east of SW 72nd Avenue. The maximum allowed gross floor area is 60,000 square feet per building.
- [7] See Subsection 18.130.040.B for additional land use restrictions.
- [8] The maximum allowed gross floor area of these uses, either separately or in combination, is 20% of the entire development complex. The maximum allowed gross floor area for retail uses is 60,000 square feet per building or tenant.
- [9] The maximum allowed gross floor area of these uses, either separately or in combination, is 10,000 square feet per lot.
- [10] Only boat sales or rental is allowed.
- [11] Vehicle Fuel Sales allowed unless in combination with convenience sales, in which case it is allowed conditionally.

Notes:

- [12] See Chapter 18.450, Wireless Communication Facilities, for a description of allowed and restricted facilities in the I-P zone.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-09 §2)

§ 18.130.040. Land Use Restrictions.

- A. Day care uses. The following standards apply to all day care facilities in industrial zones, except family day care:
 1. The applicant must prepare an environmental impact assessment that documents noise, visible emissions, vibration, odor, glare, and heat from uses within 0.25 miles. A plan and program for day care facilities to provide mitigation on site for any of the above off-site impacts must be provided. Sound attenuation walls, screening, window covering, shades, and other such means are appropriate means of mitigation and may be attached as conditions of approval.
 2. The State of Oregon Child Care Division Certification Section must be notified of the proposed site plans prior to submitting an application to ensure that the plans submitted generally address the permitting requirements.
 3. Prior to occupancy of the proposed day care, evidence of certification through the State of Oregon Child Care Division must be provided to the city.
- B. Commercial lodging uses. The following standards apply to all commercial lodging uses in the I-P zone:
 1. The site must be a minimum of two acres and a maximum of five acres.
 2. The site must have access to an arterial or collector street approved by the City Engineer with sufficient capacity to maintain adequate access to local businesses.
 3. Uses that are allowed in the I-P zone are allowed as accessory uses to a commercial lodging development, provided they comprise no more than 20% of total gross floor area of the development.

(Ord. 18-28 §1)

CHAPTER 18.140 Parks and Recreation Zone

§ 18.140.010. Purpose.

The purpose of this chapter is to preserve and enhance publicly-owned open space and natural and improved parkland within the city. This zone is intended to serve many functions including:

- A. Providing opportunities for both active and passive recreational facilities to meet neighborhood, community, and regional needs;
- B. Providing contrast to the built environment;
- C. Providing opportunities to strengthen community identity, improve public health, and foster interactions between citizens;
- D. Providing economic development by creating a desirable public image and robust quality of life;
- E. Recognizing that publicly-owned parks have a special relationship to the community and are an important resource;
- F. Providing flexibility in the use and development of recreational facilities as the city responds to changes in demographics, program needs, and external regulatory requirements; and
- G. Allowing for the efficient implementation of plans and improvements to parks, recreational facilities, and open areas with appropriate reviews where compatibility issues may arise.

(Ord. 17-22 §2; Ord. 18-28 §1)

§ 18.140.020. Applicability.

The Parks and Recreation (PR) zone is applicable to all city-owned lands intended as parks, open space, and recreational facilities and may be applied within all comprehensive plan designations. City-owned parks, open space, and recreational facilities located in a plan district may retain or receive other than a PR zone designation if it better furthers the goals of the plan district. In addition, other public agencies may request a PR zone designation for areas that meet the purpose of the zone.

(Ord. 17-22 §2; Ord. 18-28 §1)

§ 18.140.030. Other Zoning Regulations.

Sites with overlay zones, plan districts, inventoried hazards, or sensitive lands are subject to additional regulations. Specific uses or developments may also be subject to regulations as provided elsewhere in this title.

(Ord. 17-22 §2; Ord. 18-28 §1)

§ 18.140.040. Land Use Standards.

- A. General provisions. A list of allowed, restricted, conditional, and prohibited uses in the PR zone is provided in Table 18.140.1. If a use category is not listed, see Section 18.60.030.
 1. Allowed (A). Uses that are allowed, subject to all of the applicable provisions of this

title.

2. Conditional (C). Uses that require the approval of the Hearings Officer using discretionary criteria. The approval process and criteria are provided in Chapter 18.740, Conditional Uses.
3. Prohibited (P). Uses that are not allowed under any circumstance.

**Table 18.140.1
Parks and Recreation Zone Use Standards**

Use Categories	Use Type
Residential Use Category	
Residential Use	P
Civic / Institutional Use Categories	
Basic Utilities	C [1]
Colleges	P
Community Service	A/C [2]
Cultural Institutions	C
Day Care	P
Emergency Services	P
Medical Centers	P
Postal Service	P
Religious Institutions	P
Schools	C [3][4]
Social/FraternaL Clubs/Lodges	P
Temporary Shelter	P
Commercial Use Categories	
Adult Entertainment	P
Animal-Related Commercial	P
Bulk Sales	P
Commercial Lodging	P
Custom Arts and Crafts	P
Eating and Drinking Establishments	C [4]
Indoor Entertainment	P
Major Event Entertainment	C
Motor Vehicle Sales/Rental	P
Motor Vehicle Servicing/Repair	P
Non-Accessory Parking	P

Table 18.140.1 Parks and Recreation Zone Use Standards	
Use Categories	Use Type
Office	C [4]
Outdoor Entertainment	C
Outdoor Sales	C [4]
Personal Services	P
Repair-Oriented Retail	P
Sales-Oriented Retail	C [4]
Self-Service Storage	P
Vehicle Fuel Sales	P
Industrial Use Categories	
General Industrial	P
Heavy Industrial	P
Industrial Services	P
Light Industrial	P
Railroad Yards	P
Research and Development	P
Warehouse/Freight Movement	P
Waste-Related	P
Wholesale and Equipment Rental	P
Other Use Categories	
Cemeteries	P
Detention Facilities	P
Heliports	P
Mining	P
Transportation/Utility Corridors	C [5]
Wireless Communication Facilities	A/C [6]

Notes:

A=Allowed C=Conditional Use P=Prohibited

[1] Above-ground public and private utility facilities proposed with development and underground public and private utility facilities are allowed. Standalone above-ground public and private utility facilities not proposed with development are allowed conditionally.

[2] See Subsections 18.140.040.B and C for use type determination.

Notes:

- [3] Restricted to activities and facilities focused on environmental education.
- [4] Allowed only when accessory to a Community Service use.
- [5] Multi-use trails are allowed, all other uses are conditional.
- [6] See Chapter 18.450, Wireless Communication Facilities, for requirements.

- B. Allowed development. When associated with a Community Service use, the following types of development are allowed provided it complies with the development standards and other regulations of this title. Site development review is not required for the types of development listed below. All other applicable land use reviews apply.
 - 1. Park furnishings such as play equipment, picnic tables, benches, bicycle racks, public art, trash receptacles, and other improvements of a similar nature.
 - 2. Fences.
 - 3. Off-street, multi-use trails.
 - 4. Structures up to 600 square feet in size, and no more than 15 feet high.
 - 5. Picnic areas designed to accommodate groups of less than 25.
 - 6. Outdoor recreational fields, courts, arenas, and other structures when not illuminated and not designed or intended for organized sports and competitions.
 - 7. Community gardens up to 5,000 square feet in size.
 - 8. Routine maintenance or replacement of existing facilities.
- C. Development subject to conditional use review. The following types of development are allowed subject to conditional use permit approval, as provided in Chapter 18.740, Conditional Uses.
 - 1. Pools and aquatic centers, both indoor and outdoor.
 - 2. Community and senior centers providing a focus for recreational, social, education, and cultural activities. These may include gymnasiums, indoor tracks and fitness areas, meeting rooms, office and kitchen space, and other amenities designed for community use.
 - 3. Picnic areas designed to accommodate groups of 25 or more.
 - 4. Boat ramps.
 - 5. Off-street parking areas.
 - 6. Recreational fields, courts, arenas, and associated structures for organized sports and competitions.

7. Stages and amphitheaters.
8. Dog parks.
9. Community gardens in excess of 5,000 square feet.
10. Structures in excess of 600 square feet in size, or more than 15 feet high.
11. Outdoor amplified sound systems.
12. Illuminated athletic fields, courts, and other outdoor recreational facilities intended to be used after sunset.
13. Camping, unless associated with an approved temporary or seasonal event as provided in Chapter 18.440, Temporary Uses.
14. Golf courses, including club houses and driving ranges.
15. Development within a high voltage transmission line right-of-way.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-09 §2)

§ 18.140.050. Development Standards.

Development within the PR zone must comply with the following development standards, except where the applicant has obtained an adjustment as provided in Chapter 18.715, Adjustments.

- A. Minimum lot size. None.
- B. Minimum lot width. None.
- C. Maximum structure height. None, except structures within 100 feet of a residential zone are subject to the maximum height limit for the abutting residential zone.
- D. Minimum structure setbacks. None, except where abutting a residential zone. In such cases structures must be set back a minimum distance of one foot for each foot of building height.
- E. Setbacks from future rights-of-way. For the purpose of measuring setbacks from rights-of-way, the setbacks are measured from the ultimate right-of-way as shown in the Transportation System Plan.
- F. Outdoor recreation facility setbacks. Non-illuminated playgrounds must be set back a minimum of 25 feet from abutting residentially-zoned properties. Illuminated playgrounds and other constructed recreational facilities such as swimming pools, skate parks, basketball courts, soccer fields, and group picnic areas must be set back 50 feet from abutting residentially-zoned properties. Where the outdoor facility abuts a school use, the setback is reduced to zero feet. Outdoor recreation facilities not meeting minimum setbacks provided in this subsection may be considered through conditional use review as provided in Chapter 18.740, Conditional Uses.
- G. Projections not for human habitation. Projections such as chimneys, spires, domes, elevator shaft housings, towers excluding TV dish receivers, aerials, flag poles, and other similar objects not used for human occupancy, are not subject to the building height limitations of this title.
- H. Exceptions to minimum setbacks. The following may project into required setbacks:

1. Cornices, eaves, belt courses, sills, canopies, or similar architectural features may extend or project into a required setback not more than three feet provided the setback is not reduced to less than three feet.
 2. Fireplace chimneys may project into a required front, side, or rear setback not more than three feet provided the setback is not reduced to less than three feet.
 3. Unroofed porches, decks, or balconies three feet or less in height may project into a required rear or side setback provided the projection does not reduce the width of any setback to less than three feet. Unroofed porches may project a maximum of three feet into a required front setback.
 4. Unroofed landings and stairs may project into required front or rear setbacks only.
- I. Bathrooms and concessions. Bathrooms and concession stands must be set back a minimum distance of 50 feet from abutting residential zones. Where a bathroom or concession stand abuts a Schools use on a residentially-zoned property, the setback is reduced to zero feet.
 - J. Parking. Development must comply with Chapter 18.410, Off-Street Parking and Loading.
 - K. Signs. Signs in the PR zone must comply with the regulations applicable to nonresidential land uses in residential zones, as provided in Subsection 18.435.130.A.
 - L. Lights and amplified sound systems. Lights and amplified sounds systems must comply with Title 6, Nuisance Violations. In addition, glare sources must be hooded, shielded, or otherwise located to avoid direct or reflected illumination in excess of 0.5 foot candles, as measured at the site boundary or at the furthest boundary of abutting industrially-zoned properties.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-10 §2)

Part 18.200
RESIDENTIAL DEVELOPMENT STANDARDS

Note: A reference to 18.200 Residential Development Standards is a reference to all of the chapters listed above.

**CHAPTER 18.210
Residential General Provisions**

§ 18.210.010. Purpose.

The purpose of this chapter is to provide standards that are broadly applicable to all residential development in residential and commercial zones.

(Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.210.020. Fence and Wall Standards.

Fences and walls may be located within required setbacks. Fences and walls located within required setbacks are subject to the standards in this section. Fences and walls located outside required setbacks are subject to the standards in the applicable housing type chapter in 18.200 Residential Development Standards.

- A. Fences and walls in a required front setback may be a maximum of 3 feet in height where abutting a local or neighborhood street and a maximum of 6 feet in height where abutting a collector or arterial street.
- B. Fences and walls in a required side, street side, or rear setback may be a maximum of 8 feet in height. Fences and walls 7 feet or more in height require a building permit.
- C. Fences and walls with barbed or razor wire are prohibited.
- D. Fences and walls must meet vision clearance area requirements in Chapter 18.930, Vision Clearance Areas.

(Ord. 18-28 §1)

§ 18.210.030. Exceptions to Setback and Height Standards.

- A. Additional setbacks. Increased or different setbacks apply in the following situations:
 1. Where the ultimate right-of-way width, as shown in the Transportation System Plan, is wider than the current right-of-way width, required setbacks are measured from the ultimate right-of-way width.
 2. Where freestanding private communication and utility facilities that are accessory to a residential use and not subject to the provisions of Chapter 18.450, Wireless Communication Facilities, are proposed, such facilities must be set back from all property lines a distance equal to or greater than the height of the facility. Freestanding communication and utility facilities include, but are not limited to, wind turbines and communication towers, antennas, and receivers.
- B. Exceptions to minimum setbacks.
 1. Freestanding mechanical equipment, such as heating and cooling equipment, may be located within any required setback, except that equipment serving apartment developments is subject to the standards in Chapter 18.230, Apartments.
 2. Required setbacks for all buildings, except garages, may be reduced for the purpose of preserving healthy noninvasive trees. Required front setbacks may be reduced by a maximum of 25 percent, and other required setbacks may be reduced by a maximum

of 20 percent.

3. Cornices, eaves, belt courses, sills, canopies, or similar architectural features may project a maximum of 3 feet into a required setback provided the projection does not reduce the width of any setback to less than 3 feet.
 4. Fireplaces and chimneys may project a maximum of 3 feet into a required setback provided the projection does not reduce the width of any setback to less than 3 feet.
 5. Unroofed porches, decks, or balconies 3 feet or less in height may project into a required rear or side setback provided the projection does not reduce the width of any setback to less than 3 feet. Unroofed porches may project a maximum of 3 feet into a required front setback.
 6. Unroofed landings or stairs may project into a required front or rear setback.
 7. Inground swimming pools may project into a required rear or side setback provided the projection does not reduce the width of any setback to less than 5 feet.
 8. Bay windows and projections with floor area may project into a required interior side or street side setback by 1 foot provided the projections do not:
 - a. Exceed 12 feet in length;
 - b. Contain over 30 percent of the dwelling unit side elevation square footage; and
 - c. Reduce the width of the interior side setback to less than 3 feet.
 9. The front setback of the front facade of the primary structure may be reduced to the average of the respective setbacks on the abutting lots using the method in Section 18.40.070. Garage setbacks may not be reduced.
- C. Exception to maximum height. Building projections not designed for human occupancy are not subject to the building height limitations of this title. Building projections not designed for human occupancy include, but are not limited to, chimneys, spires, domes, elevator shaft housings, flag poles, and antennas and receivers not subject to the provisions of Chapter 18.450, Wireless Communication Facilities.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

CHAPTER 18.220 **Accessory Dwelling Units**

§ 18.220.010. Purpose.

The purpose of this chapter is to provide clear and objective standards for the establishment of detached accessory dwelling units on lots with small form residential development. Attached accessory dwelling units are considered small form residential development for the purposes of meeting the requirements of applicable state law and administrative rules. Detached accessory dwelling units have the following characteristics:

- A. They are of limited size and height;
- B. They are located in a manner that is subordinate to the primary residential use;
- C. They may be newly constructed or converted from existing dwelling spaces or accessory structures;
- D. They may share utilities with a primary dwelling unit where allowed by the applicable service provider; and
- E. The units require no additional off-street parking.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.220.020. Applicability.

- A. Applicability. The standards of this chapter apply to detached accessory dwelling units wherever this housing type is allowed, as provided in the use and housing type tables in Chapter 18.110, Residential Zones. Attached accessory dwelling units are considered small form residential development and are subject to the standards of Chapter 18.290, Small Form Residential.
- B. Prohibitions. Detached accessory dwelling units are allowed only on lots with small form residential development. They are prohibited as an accessory housing type to apartment, cottage cluster, courtyard unit, quad, and rowhouse development.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.220.030. Compliance.

Accessory dwelling units must comply with the clear and objective standards of Section 18.220.040 and all other applicable standards of this title.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.220.040. Standards.

- A. Unit count. A maximum of one detached accessory dwelling unit is allowed per lot. The total maximum number of dwelling units on a small form residential lot is three, including the units in the small form residential development. Detached accessory dwelling units are prohibited on lots with three small form residential dwelling units.
- B. Size. The maximum size of a detached accessory dwelling unit is 800 square feet.
- C. Height. The maximum height of a detached accessory dwelling unit is 25 feet.

- D. Setbacks. Detached accessory dwelling units must meet the setback standards for small form residential development in the applicable base zone, with the following exceptions:
1. Detached accessory dwelling units must be located no closer to a front property line than the primary dwelling, and
 2. Detached accessory dwelling units may be located within five feet of the rear property line if the accessory dwelling unit is 15 feet or less in height.
- E. Lot coverage. Detached accessory dwelling units must meet the lot coverage standards for small form residential development in the applicable base zone, as provided in Chapter 18.290, Small Form Residential.
- F. Facades. Detached accessory dwelling units must meet the same standards for windows and street-facing facades that apply to small form residential development in the applicable base zone, as provided in Chapter 18.290, Small Form Residential.
- G. Accessory structure additions and conversions. Detached accessory dwelling units may be added to or created from existing accessory structures such as detached garages. The maximum square footage requirements for the accessory dwelling unit apply to the entire structure, including any portion that remains in use as an accessory structure.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

CHAPTER 18.230 **Apartments**

§ 18.230.010. Purpose.

Apartments are a type of attached housing within single-story or multi-story buildings. Apartment dwelling units may share common side walls, ceilings, or floors. The purpose of this chapter is to provide standards that promote quality development and enhance the livability, walkability, and safety of the community. Apartment development is intended to achieve the following:

- A. Increase the number of affordable dwelling units;
- B. Provide for a variety of housing types that meet the needs of Tigard's diverse population at all stages of life;
- C. Facilitate the efficient use of land through higher-density attached housing; and
- D. Support and complement transit services by providing ridership density and proximity.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.230.020. Applicability.

- A. The standards of this chapter apply to apartment development in the RES-D, RES-E, MUC, MUE, MUE-1, MUE-2, MUR-1, and MUR-2 zones. Additional standards apply in the River Terrace Plan District as provided in Chapter 18.640, River Terrace Plan District. An applicant may elect to apply the approval process and standards of this chapter or of Chapter 18.280, Rowhouses, when proposing rowhouse development.
- B. The standards of this chapter also apply to nonconforming apartment development in the RES-A through RES-C zones. In lieu of specific base zone standards, apartment development in these zones is subject to the RES-D zone standards.
- C. Apartment development in the MUC-1 zone is subject to the standards of Chapter 18.620, Bridgeport Village Plan District.
- D. This chapter does not apply to apartment development in the MU-CBD and TMU zones. Apartment development in these zones is subject to the approval processes and standards of Chapter 18.650, Tigard Downtown Plan District, and Chapter 18.660, Tigard Triangle Plan District, respectively.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.230.030. Application Type.

Apartment development requires a site development review application.

(Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.230.040. Development Standards.

- A. Base zone development standards are provided in Table 18.230.1.

Table 18.230.1
Apartment Development Standards

Standard	RES-D	RES-E	MUE	MUE-2 and MUR-2	MUR-1	MUC and MUE-1
Minimum Setbacks (ft)						
- Front	20	20	20	10	None	None
- Street side	20	20	20	10	5	None
- Side	10	10 [1]	10 [1]	0 or 20 [2]	0 or 20 [2]	0 or 20 [2]
- Rear	20	20 [1]	20 [1]	0 or 20 [2]	0 or 20 [2]	0 or 20 [2]
Maximum Setbacks (ft)						
- Front	None	None	None	20	20	20
- Street side	None	None	None	20	20	20
Minimum Height	None	None	None	None	2 stories	2 stories
Maximum Height (ft)	35	45	45	60	75	200
Maximum Lot Coverage	80%	80%	80%	80%	80%	85%
Minimum Landscape Area	20%	20%	20%	20%	20%	15%
Minimum Density	11 units per acre	23 units per acre	None	25 units per acre	50 units per acre	50 units per acre
Maximum Density	14 units per acre	30 units per acre	25 units per acre	50 units per acre	None	None

Notes:

[1]

Where the site abuts a RES-A through RES-D zone, an additional one foot of setback is required for each foot of building height above the maximum building height of the abutting zone.

[2]

Minimum side and rear setbacks are 0 feet, except the minimum side and rear setbacks are 20 feet where the site abuts a RES-A through RES-D zone.

B. Landscaping and screening. All required landscaping, including landscaping used to meet screening or tree canopy standards, is subject to the general provisions of Chapter 18.420, Landscaping and Screening.

1. The minimum landscape area standard is provided in Table 18.230.1. Landscaping standards are provided in Section 18.420.040. Any landscape area that meets the L-2

standard and any required common open space area may count toward meeting the minimum landscape area standard.

2. Screening standards are provided in Section 18.420.050. Screening is required as follows:
 - a. Service areas and wall- and roof-mounted utilities must be screened to the S-1 standard. Service areas and utilities are also subject to the standards in Subsection 18.230.040.G.
 - b. Apartments that abut a RES-A through RES-D zone must be screened to the S-3 standard along all property lines, except street property lines.
 - c. Surface vehicle parking areas, loading areas, and drive aisles within 20 feet of a street property line must be screened to the S-4 standard. Screening must be provided directly adjacent to the street property line, except where access is taken.
3. The minimum tree canopy standards for the site and any off-street vehicle parking areas are provided in Section 18.420.060.

C. Common open space.

1. Common open space is required. The minimum total area of required common open space is 10% of the gross site area or 750 square feet, whichever is greater. More than one common open space area may be provided to meet this standard, but any area used to meet this standard must be a minimum of 20 feet in width and depth.
2. Apartment developments with less than 20 dwelling units must provide at least two different items from the list below within areas identified as common open space. Apartment developments with 20 or more dwelling units must provide at least four different items from the list below within areas identified as common open space.
 - a. Playground equipment or play area for children,
 - b. Sport court,
 - c. Playing field,
 - d. Lawn or garden,
 - e. Covered seating,
 - f. Swimming pool or water feature,
 - g. Plaza or courtyard with permanent seating,
 - h. Gazebo,
 - i. Club house,
 - j. Workout room, or
 - k. Other similar item as determined by the director.
3. At least 50% of the dwelling units in a development must face outdoor common open

space or a public street. This standard is met when the front door or a window from the kitchen, living room, or dining room of a dwelling unit faces the outdoor common open space or a public street.

4. Building facades, including accessory structure facades, that face outdoor common open space must meet the 15% window area requirement in Subsection 18.230.050.B or be screened to the S-4 standard as provided in Table 18.420.2.
5. Common open space may not be located in the front setback or include sensitive lands.

D. Private open space.

1. Private open space is required for each dwelling unit. Each private open space must be a minimum of 48 square feet in area and a minimum of five feet in width and depth.
2. Private open space must be directly accessible from the interior of the dwelling unit that it serves.
3. Additional common open space above the required minimum may substitute for some or all of the required private open space at a 1:1 ratio.

E. Pedestrian access.

1. Paths must provide pedestrian access from public sidewalks and transit facilities abutting the site to all required building entrances on the site.
2. Paths must provide pedestrian access between all common open space areas, vehicle and bicycle parking areas, building entrances, and service areas designed for use by residents. Paths within parking areas or along drive aisles are subject to additional standards in Chapter 18.410, Off-Street Parking and Loading.
3. Paths must extend to the perimeter property line to provide pedestrian access to existing or planned active transportation facilities on adjacent properties.
4. Paths must be constructed with a hard surface material and have a minimum unobstructed width of five feet.

F. Vehicle and bicycle parking.

1. The applicable provisions and standards of Chapter 18.410, Off-Street Parking and Loading, apply to apartment developments.
2. Off-street surface vehicle parking areas, detached garages, and attached or detached carports may not be located closer to a street property line than the building closest to that street property line.
3. Off-street vehicle parking areas may not occupy more than 50% of the total length of each street frontage as measured 20 feet from the street property line. Drive aisles without adjacent parking spaces do not count as parking areas for the purposes of this standard.
4. Attached garages may be attached to any side of an apartment building. If attached to the street-facing facade, they may not be located closer to the street property line than

the apartment building facade and the facade must include at least one entrance for each proposed garage that meets the standards of Subsection 18.230.050.A. Driveways associated with attached garages that take direct individual access from a public or private street must meet the rowhouse location and access standards in Paragraph 18.280.050.E.3 and Subparagraph 18.280.050.E.2.a.

5. A minimum of one bicycle parking space must be provided for every two dwelling units. Fractional parking space minima are rounded up to the nearest whole number. Apartment developments with 20 or more dwelling units must meet the following additional standards:
 - a. All bicycle parking required by Paragraph 18.230.040.F.5 above must be provided inside a structure or under a roof. This bicycle parking is exempt from the location standards of Chapter 18.410, Off Street Parking and Loading, but may not be located inside individual dwelling units.
 - b. Additional bicycle parking must be provided that is equal to or greater than 15% of the minimum parking requirement as provided in Paragraph 18.230.040.F.5 above. This additional bicycle parking must be provided within 20 feet of the street property line and be visible to pedestrians from the public sidewalk in front of the site. Bicycle parking may be located in the public right-of-way with approval of the City Engineer.
6. The maximum number of off-street vehicle parking spaces is 1.2 spaces per studio unit and 1.5 spaces per non-studio unit. An additional 1 space per 10 dwelling units may be included for visitor parking.

G. Utilities and service areas.

1. Private utility facilities, such as transformers or control valves, that serve a single development must be located below ground unless the functional properties of the facility require above-ground placement. If located above ground, all facilities one cubic foot or greater in volume, or with any one dimension greater than two feet, must meet the following standards where not wall- or roof-mounted or located inside a building:
 - a. The facility may not be located within 20 feet of any street property line; and
 - b. The facility must be dark in color and painted or wrapped with a non-reflective material.
2. Service areas, such as waste and recycling containers, outdoor storage, and mechanical equipment, may not be located within 20 feet of any street property line, except where located inside a building.

H. Lighting.

1. Minimum illumination levels are measured horizontally at ground level.
 - a. The minimum average illumination is 1.5 footcandles for paths, except those within parking areas, which are subject to the lighting standards in Chapter 18.410, Off-Street Parking and Loading. All points of measurement must be a minimum of 0.5 footcandles.

- b. The minimum average illumination is 3.5 footcandles for required building entrances and 2.0 footcandles for any non-required building entrances. All points of measurement must be a minimum of 1.0 footcandle.
 2. Maximum illumination levels are measured vertically at the property line or sensitive lands boundary line. The maximum illumination is 0.5 footcandles at side and rear property lines, except that the maximum illumination may be increased to 1.0 footcandle where the development abuts a commercial or industrial zone. The maximum illumination is zero footcandles at any sensitive lands boundary line.
 3. Lighting must be shielded, with a cutoff angle of 90 degrees or greater to ensure that it does not shine upwards. Lighting sources, such as lamps and bulbs, may not be directly visible from adjacent properties or sensitive lands.
- I. Apartments are subject to all other applicable requirements of this title, including, but not limited to, standards related to streets, utilities, sensitive lands, and signs.
- (Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2; Ord. 23-08, 12/5/2023)

§ 18.230.050. Design Standards.

A. Entrances.

1. For dwelling units with internal building access, a minimum of one entrance per building must be visible and accessible from a public or private street or outdoor common open space. Additional entrances may face drive aisles, parking areas, or service areas.
2. For dwelling units without internal building access, a minimum of one entrance per dwelling unit must be visible and accessible from a public or private street, outdoor common open space, or drive aisle that has a curb and path adjacent to the dwelling unit.
3. A required building entrance must be at an angle that is no more than 45 degrees from the street, common open space, or drive aisle that it faces. A required building entrance to an individual dwelling unit may exceed this standard where it opens onto a porch or stoop provided the angle is no more than 90 degrees from the street, common open space, or drive aisle that it faces.
4. A required building entrance must be covered, recessed, or treated with a permanent architectural feature that provides weather protection for pedestrians. The required weather protection must be at least as wide as the entrance, a maximum of six feet above the top of the entrance, and a minimum of three feet in depth. The required weather protection may project into the minimum front setback.

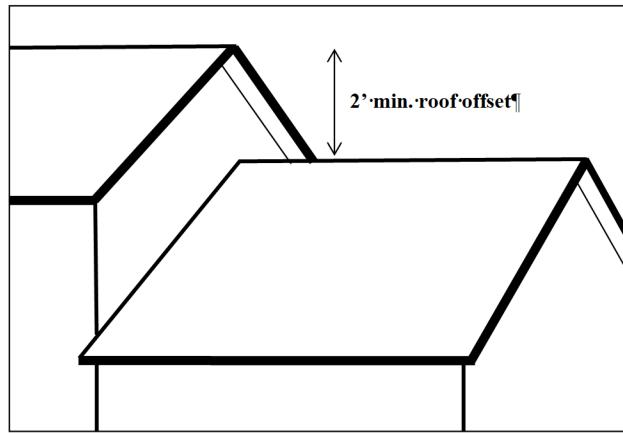
B. Windows.

1. All building facades that face a public or private street must include a minimum of 15% window area.
2. The minimum window area standard does not apply to stories with sloped roofs or dormers.

C. Facade design.

1. All building facades that face a public or private street or outdoor common open space must include at least two different architectural features from the list provided below. An additional two different architectural features per facade are required on all buildings with 20 or more dwelling units. This standard may be met by including different architectural features on different facades of the same building. Buildings that do not include dwelling units are exempt from providing architectural features on facades that face common open areas, but must provide at least two different architectural features on all street-facing facades.
 - a. Facade articulation. A wall projection or recession that is a minimum of six feet in width and two feet in depth for a minimum of half the height of the facade and with a maximum distance of 40 feet between projections or recessions.
 - b. Roof eave or projecting cornice.
 - i. An eave that projects a minimum of 12 inches from the building facade; or
 - ii. A cornice that projects a minimum of six inches from the building facade and is a minimum of 12 inches in height.
 - c. Roof offsets or dormers.
 - i. A roof offset that is a minimum of two feet from the top surface of one roof to the top surface of another roof as measured horizontally or vertically with a maximum distance of 40 feet between offsets. See Figure 18.230.1; or
 - ii. One dormer for each top-story dwelling unit that is a minimum of four feet in width and integrated into the roof form.

Figure 18.230.1 Roof Offset



- d. Accent siding. A minimum of two different siding materials are used, and one siding material covers a minimum of 40% of the building facade.
- e. Distinct base and top. The first story is visually distinguished from the upper stories by including a belt course and at least one of the following:

- i. a change in surface or siding pattern;
 - ii. a change in surface or siding material; or
 - iii. a change in the size or orientation of windows.
- f. Window area. A minimum of 50% window area is included.
 - g. Window shadowing. All windows include at least one of the following:
 - i. Window trim that is a minimum of 2.5 inches in width and 0.625 inches in depth; or
 - ii. Windows that are recessed a minimum of three inches from the building facade.
 - h. Balconies. Balconies are included on all upper stories that meet the dimensional requirement for private open space provided in Subsection 18.230.040.D.
 - i. Covered porches or recessed entrances. All first-story dwelling units with individual entrances include at least one of the following:
 - i. A covered porch that is a minimum of five feet in width and depth; or
 - ii. An entrance area that is a minimum of five feet in width and recessed a minimum of two feet from the building facade.
 - j. Enhanced entrances or awnings. A building that provides internal access to dwelling units includes at least one of the following:
 - i. A building entrance area that is a minimum of eight feet in width and is either:
 - (A) recessed a minimum of five feet from the building facade, or
 - (B) covered with a permanent architectural feature that provides weather protection. The architectural feature must be at least as wide as the entry, a maximum of six feet above the top of the entry, and a minimum of five feet in depth. The architectural feature may project into the minimum front setback; or
 - ii. A permanent architectural feature above all first-story windows, such as an awning or series of awnings, that are at least as wide as each window, a maximum of six feet above the top of each window, and a minimum of three feet in depth. The architectural feature may project into the minimum front setback.
2. The following building materials are prohibited on all building facades, including accessory structure facades, that face a public or private street or outdoor common open space. They may not be used collectively on more than 35% of any other building facade.
 - a. Vinyl PVC siding,
 - b. T-111 plywood,

- c. Exterior insulation finishing (EIFS),
- d. Corrugated metal,
- e. Plain concrete or plain concrete block,
- f. Spandrel glass, or
- g. Sheet pressboard.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.230.060. Accessory Structures.

Accessory structures are allowed subject to the following standards:

- A. Accessory structures are prohibited in the required front or street side setback;
- B. Accessory structures may be located in the required side or rear setback provided they are a minimum of five feet from the side and rear property lines and a maximum of 15 feet in height; and
- C. All accessory structures, including structures required to screen utilities and service areas, and all site improvements, such as fences, walls, signs, and light fixtures, must use materials, colors, and architectural design features that are similar in scale and appearance to those on primary buildings. Chain link fencing and unfinished concrete blocks are prohibited within 20 feet of any street property line or public access easement.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

CHAPTER 18.240 **Cottage Clusters**

§ 18.240.010. Purpose.

The purpose of this chapter is to provide clear and objective standards for cottage cluster development to meet the requirements of state law and Oregon Statewide Planning Goal 10. Optional alternative standards are also provided for cottage cluster development. Cottage cluster development has the following characteristics:

- A. The development consists of detached cottages of limited size and footprint;
- B. The cottages are arranged around a courtyard that provides shared open space;
- C. The courtyard opens to the street and provides a visual and physical connection to the interior of the development;
- D. Internal pathways connect the cottages to the shared site elements and to the adjacent sidewalk;
- E. Off-street parking areas are efficiently designed and screened; and
- F. The overall design emphasizes sustainable development patterns and climate resiliency.
(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.240.020. Applicability.

The standards of this chapter apply to cottage cluster development wherever this housing type is allowed as provided in the use and housing type tables in Chapter 18.110, Residential Zones and Chapter 18.120, Commercial Zones. Additional standards apply in the River Terrace Plan District, as provided in Chapter 18.640, River Terrace Plan District.

(Ord. 18-23 §2; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.240.030. Review Process.

Cottage cluster development requires review through one of the following:

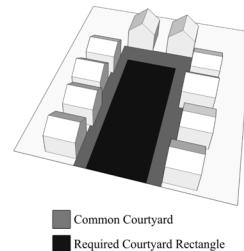
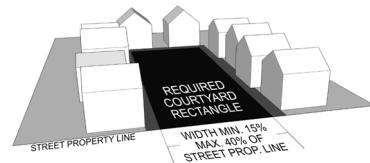
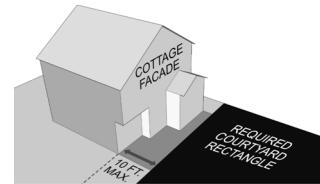
- A. A cottage cluster development that complies with the clear and objective standards of Section 18.240.050 requires development permits.
- B. A cottage cluster development that does not comply with the clear and objective standards of Section 18.240.050 requires a site development review application, as provided in Section 18.780.040, subject to the alternative standards of Section 18.240.060 and any other applicable standards in this title.
(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.240.040. General Provisions.

Adjustments to the clear and objective standards of Section 18.240.050 are prohibited.
(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

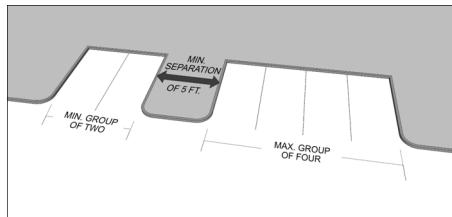
§ 18.240.050. Clear and Objective Standards.

- A. Unit count. The required number of cottages in a cottage cluster development is determined as follows:
 1. A cottage cluster development must contain a minimum of four cottages; and
 2. A minimum of one cottage is required for every 2,500 square feet of gross lot area. Any designated sensitive lands are included in the lot area. Any dedications are excluded from the lot area.
- B. Minimum lot width.
 1. The minimum lot width in the RES-A zone is 65 feet.
 2. The minimum lot width in the RES-B zone is 50 feet.
 3. The minimum lot width in all other zones is zero feet.
- C. Setbacks. Setbacks apply only to the perimeter of the cottage cluster development.
 1. The minimum setback of cottages from all street property lines is 10 feet.
 2. The minimum setback of cottages from all other perimeter property lines is five feet.
- D. Common courtyard. A single common courtyard must be provided. This common courtyard is not required to be rectangular; however, a single rectangle meeting size and location standards must be entirely contained within the common courtyard as shown in Figure 18.240.1. The rectangle is a portion of the common courtyard used to demonstrate compliance with all of the standards listed below.
 1. The minimum size of the rectangle is 15% of the gross lot area.
 2. The rectangle must abut a minimum of 15% of the length of a single street property line. See Figure 18.240.2.
 3. The rectangle must not abut more than 40% of the length of a single street property line.
 4. The rectangle must be a minimum of 15 feet wide along its entire length.
 5. Each cottage must have all points along one facade located entirely within 10 feet of the rectangle. See Figure 18.240.3.
 6. Cottages and parking and maneuvering areas are prohibited within the rectangle.

Figure 18.240.1 Common Courtyard Relationship to Required Rectangle**Figure 18.240.2 Courtyard Rectangle Width at Street Property Line****Figure 18.240.3 Required Courtyard Frontage for Cottages**

- E. Location of cottages. A minimum of two cottages in each development must have all points along one facade of each cottage located entirely within 20 feet of the same street property line.
- F. Configuration of cottages. All cottages must be detached, with a minimum separation between cottages of at least three feet at all points, including projections such as balconies and eaves.
- G. Parking. The provisions and standards of Chapter 18.410, Off-Street Parking and Loading, apply. The following additional standards also apply:
 - 1. Number of spaces. A maximum of 1.2 off-street parking spaces are allowed for each cottage. Fractional parking space maxima are rounded down to the nearest whole number.
 - 2. Grouping. Off-street parking must be provided in groups of two to four parking spaces where all spaces in a group are contiguous. See Figure 18.240.4.
 - 3. Location.
 - a. Off-street parking spaces must be located a minimum of 20 feet from any street property line, except that parking spaces may be located a minimum of five feet from a property line along an alley.

- b. Off-street parking spaces must be located a minimum of 10 feet from any property line that does not abut a street, alley, or other public right-of-way.
 - c. Off-street parking spaces must be located a minimum of 10 feet from all cottages.
 - d. Off-street parking spaces must be located a minimum of five feet from any public access easement.
 - e. Off-street parking space groups must be separated by a minimum of five feet from other parking space groups on the site. If this separation area is 10 feet or less in width, it must be landscaped to meet the L-2 standard, as provided in Table 18.420.1, except that trees are not required.
4. Garages and carports. Garages and carports are prohibited.
5. Screening. Off-street parking spaces must meet the following:
- a. They must be screened from the street to the S-4 standard if located within 100 feet of a street property line.
 - b. They must be screened from adjacent properties to the S-3 standard, as provided in Table 18.420.2.

Figure 18.240.4 Parking Grouping and Separation

- H. Pedestrian access. An accessible path a minimum of five feet in width must be provided that connects the main entrance of each cottage to the following areas:
1. At least one parking space group on the lot,
 2. The common courtyard rectangle, and
 3. Sidewalks in all adjacent rights-of-way, including at least one connection to a sidewalk along the required courtyard rectangle frontage. See Figure 18.240.5.

Figure 18.240.5 Pedestrian Connection Along Required Common Rectangle

- I. Landscaping. The standards and provisions of Section 18.420.030 apply, except for Paragraphs 18.420.030.A.2 and 18.420.030.A.3. The following additional standards also

apply:

1. Common courtyards must meet the L-1 standard, as provided in Table 18.420.1.
2. A minimum of 33% tree canopy must be provided. The method for determining tree canopy is provided in Section 10 Part 3 Subpart M of the Urban Forestry Manual (UFM). All required trees must be a minimum caliper of 1.5 inches at the time of planting and meet the standards in Section 13 Part 2 and Appendix 3 of the UFM for soil volume and species. Trees planted to meet this standard are development trees. The applicant must pay the tree inventory fee listed in the city's Master Fees and Charges Schedule.
3. The minimum number of required street trees is determined by dividing the length in feet of the site's street frontage by 40 feet. When the result is a fraction, the minimum number of street trees is the nearest whole number. More than the minimum number of street trees may be required along the site's frontage depending upon the stature of trees chosen and the specific spacing standards for the chosen trees.
 - a. Street trees must be planted within the right-of-way in accordance with all standards of the city's UFM.
 - b. An existing tree may be used to meet the street tree standards provided that:
 - i. The tree is located in the public right-of-way, and
 - ii. The tree meets the UFM standards for street trees.

J. Fencing.

1. Fences located within three feet of a side or rear lot line are subject to the height requirements of Section 18.210.020, except that fences within the required front setback must not exceed three feet in height even when the lot abuts a collector or arterial street.
2. Fences located anywhere other than within three feet of a side or rear lot line must not exceed three feet in height, except for fences used to meet the screening requirements of Paragraphs 18.240.050.G.5 and 18.240.050.K.

K. Service areas. Service areas, including, but not limited to, waste collection areas and utility cabinets must not be located in required setbacks or in the required courtyard rectangle, and must be screened to the S-1 standard as provided in Table 18.420.2.

L. Floor area.

1. The total maximum floor area of a single-story cottage is 899 square feet.
2. Multi-story cottages must meet the following:
 - a. The maximum floor area of the first story is 750 square feet.
 - b. The maximum floor area of any story above the first story is 600 square feet.
 - c. The total maximum floor area of the cottage is 1,100 square feet.
3. The average floor area of all cottages in a development must not exceed 1,000 square

feet.

- M. Height. The maximum height of cottages is 35 feet.
- N. Entrances. A minimum of 75% of the cottages must have main entrances that are either parallel to or offset no more than 45 degrees from the closest edge of the required courtyard rectangle. Cottages within 20 feet of a street property line with their entrances either parallel to or offset no more than 45 degrees from the street property line may count toward this standard.
- O. Windows. The minimum total area of all windows and doors on all cottage facades is 12%. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the portion of a door, other than a garage door, that moves and does not include the frame.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.240.060. Alternative Standards.

- A. Unit count. The required number of cottages in a cottage cluster development is determined as follows:
 - 1. A cottage cluster development must contain a minimum of four cottages; and
 - 2. A minimum of one cottage is required for every 2,500 square feet of gross lot area. Any designated sensitive lands on the lot are included in the lot area. Any dedications are excluded from the lot area.
- B. Minimum lot width. The minimum lot width is 75 feet.
- C. Setbacks. Setbacks apply only to the perimeter of the cottage cluster development.
 - 1. The minimum setback of cottages from all street property lines is 10 feet.
 - 2. The minimum setback of cottages from all other perimeter property lines is five feet.
- D. Common courtyards.
 - 1. Number. One common courtyard must be provided for each cluster of cottages. A cluster consists of a minimum of four cottages and a maximum of 12 cottages. The maximum number of courtyards in a cottage cluster development is determined by dividing the total number of cottages in the development by 12. Fractional results are rounded up to the nearest whole number. A minimum of one courtyard must meet the primary courtyard standards.
 - 2. Size.
 - a. The minimum total area of all required common courtyards is 15% of the total gross area of the development site.
 - b. The minimum area of the primary courtyard is eight percent of the total gross area of the development site.
 - c. The maximum area that may count toward meeting the courtyard area standard is shown in Figure 18.240.6. This area includes the area of the shape created by:

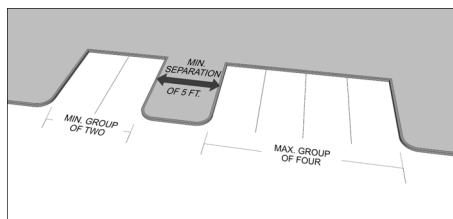
- i. The courtyard-facing facade of each cottage,
 - ii. A series of imaginary straight lines drawn between the courtyard-facing corners of adjacent cottages as measured at ground level, and
 - iii. For primary courtyards, the edge of the courtyard along the street property line.
3. Design.
- a. Parking and maneuvering areas are prohibited within all common courtyards.
 - b. At least one side of the primary courtyard must abut a single street property line for a minimum of 15% and a maximum of 40% of the length of that street property line. See Figure 18.240.7.
 - c. The courtyard must be at least 15 feet wide along any imaginary line drawn perpendicular to its edges, as defined in Subparagraph 18.240.060.D.2.c above.
 - d. Sight-obstructing structures or shrubs more than three feet in height must not be located in the primary common courtyard within 50 feet of any street property line.

Figure 18.240.6 Common Courtyard Measurement**Figure 18.240.7 Common Courtyard Width at Street Property Line**

- E. Configuration of cottages. All cottages must be detached, with a minimum separation between cottages of at least three feet at all points, including projections such as balconies and eaves.
- F. Parking. The provisions and standards of Chapter 18.410, Off-Street Parking and Loading, apply. The following additional standards also apply:
1. Number of spaces. A maximum of 1.2 off-street parking spaces are allowed for each cottage. Fractional parking space maxima are rounded down to the nearest whole number.

2. Grouping. Off-street parking must be provided in groups of two to four parking spaces where all spaces in a group are contiguous. See Figure 18.240.8.
3. Location.
 - a. Off-street parking spaces must be located a minimum of 20 feet from any street property line, except that parking spaces may be located a minimum of five feet from property line along an alley.
 - b. Off-street parking spaces must be located a minimum of 10 feet from any property line that does not abut a street, alley, or other public right-of-way.
 - c. Off-street parking spaces must be located a minimum of five feet from any public access easement.
 - d. Off-street parking space groups, including those provided in garages or carports, must be separated by a minimum of five feet on all sides from all other parking space groups, garages, carports, and cottages on the site. If this separation area is 10 feet or less in width, it must be landscaped to meet the L-2 standard, as provided in Table 18.420.1, except that trees are not required. Separation areas between garages are exempt from the landscaping requirement.
4. Garages and carports.
 - a. The maximum size for any detached garage or carport is 750 square feet and the maximum height is 15 feet. The square footage of a carport is the total area covered by a roof.
 - b. Each detached garage or carport must not contain more than four vehicle parking spaces.
5. Screening. Off-street parking spaces provided on paved surfaces or in carports must meet the following:
 - a. They must be screened from the street to the S-4 standard if located within 100 feet of a street property line.
 - b. They must be screened from adjacent properties to the S-3 standard, as provided in Table 18.420.2.

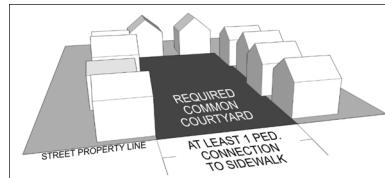
Figure 18.240.8 Parking Grouping and Separation



- G. Pedestrian access. An accessible path a minimum of five feet in width must be provided that connects the main entrance of each cottage to the following areas:
 1. At least one parking space group on the lot,

2. At least one common courtyard, and
3. Sidewalks in all adjacent rights-of-way, including at least one connection to a sidewalk along the required primary common courtyard. See Figure 18.240.9.

Figure 18.240.9 Pedestrian Connection Along Required Common Courtyard



H. Landscaping. The standards and provisions of Section 18.420.030 apply, except for Paragraphs 18.420.030.A.2 and 18.420.030.A.3. The following additional standards also apply:

1. Common courtyards must meet the L-1 standard, as provided in Table 18.420.1.
2. A minimum of 33% tree canopy must be provided. The method for determining tree canopy is provided in Section 10 Part 3 Subpart M of the Urban Forestry Manual (UFM). All required trees must be a minimum caliper of 1.5 inches at the time of planting and meet the standards in Section 13 Part 2 and Appendix 3 of the UFM for soil volume and species. Trees planted to meet this standard are development trees. The applicant must pay the tree inventory fee listed in the city's Master Fees and Charges Schedule.
3. The minimum number of required street trees is determined by dividing the length in feet of the site's street frontage by 40 feet. When the result is a fraction, the minimum number of street trees is the nearest whole number. More than the minimum number of street trees may be required along the site's frontage depending upon the stature of trees chosen and the specific spacing standards for the chosen trees.
 - a. Street trees must be planted within the right-of-way wherever practicable. Street trees may be planted a maximum of six feet from the right-of-way in an easement when planting within the right-of-way is not practicable as determined by the City Engineer.
 - b. An existing tree may be used to meet the street tree standards provided that:
 - i. The largest percentage of the tree trunk immediately above the trunk flare or root buttresses is either within the subject site or within the right-of-way immediately adjacent to the subject site; and
 - ii. The tree would be permitted as a street tree in compliance with Urban Forestry Manual street tree planting and soil volume standards if it were newly planted.

I. Fencing.

1. Fences located within three feet of a side or rear lot line are subject to the height requirements of Section 18.210.020, except that fences within a front setback must not exceed three feet in height even when the lot abuts a collector or arterial street.

2. Fences located anywhere other than within three feet of a side or rear lot line must not exceed three feet in height, except for fences used to meet the screening requirements of Paragraphs 18.240.050.G.5 and 18.240.050.J.2.

J. Service areas.

1. Waste collection areas must be located to minimize noise and odor impacts to adjoining residentially-zoned property to the degree practicable.
2. Service areas, including, but not limited to, waste collection areas and utility cabinets, must not be located in required setbacks or in a required common courtyard, and must be screened to the S-1 standard as provided in Table 18.420.2.

K. Floor area.

1. The total maximum floor area of a single-story cottage is 1,000 square feet.
2. Multi-story cottages must comply with the following:
 - a. The maximum floor area of the first story is 800 square feet.
 - b. The maximum floor area of any story above the first story is 600 square feet.
 - c. The total maximum floor area of the cottage is 1,200 square feet.
3. The average floor area of all cottages in a development must not exceed 1,100 square feet.

L. Height. The maximum height of cottages is 25 feet.

- M. Entrances. A minimum of 75% of the cottages must have main entrances that are either parallel to or offset no more than 45 degrees from the closest edge of the required courtyard rectangle. Cottages within 20 feet of a street property line with their entrances either parallel to or offset no more than 45 degrees from the street property line may count toward this standard.
- N. Windows. The minimum total area of all windows and doors on street-facing facades is 12%. The minimum total area of all windows and doors on all other facades is 10%. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the portion of a door that moves and does not include the frame.

(Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.240.070. Pre-existing Dwelling Units.

Any single pre-existing primary dwelling unit or detached accessory dwelling unit on the same lot with a proposed cottage cluster development may be included in the cottage cluster subject to the following:

- A. The primary dwelling unit must have received a final inspection a minimum of five years prior to the date of the cottage cluster application for development permits.
- B. Any detached accessory dwelling unit must have been constructed and received a final inspection a minimum of one year prior to the date of the cottage cluster application for

development permits.

C. All development standards of this chapter apply to cottage cluster development with a pre-existing primary or accessory dwelling unit, including courtyard size and location standards, with the following exceptions:

1. Any primary or accessory dwelling units proposed to remain are considered a cottage for the purposes of meeting the required minimum number of cottages.
2. Any primary or accessory dwelling unit proposed to remain under these provisions must not be modified in a manner that causes them to go further out of conformance with the standards of this chapter.
3. The floor area of any primary or accessory dwelling unit proposed to remain is not included in the maximum average floor area calculation for the cottage cluster development.
4. Any primary or accessory dwelling unit proposed to remain is not required to meet standards for location or a common courtyard-facing main entrance.

(Ord. 22-06 §2)

§ 18.240.080. Accessory Structures.

Accessory structures are allowed subject to the following:

- A. The total maximum floor area of all accessory structures on a lot is 528 square feet. The floor area of garages and carports does not count toward this maximum. Cottage cluster developments with more than 12 cottages on a lot are allowed an additional 500 square feet of accessory structure floor area, provided that no individual accessory structure exceeds 528 square feet in floor area.
- B. The maximum height of accessory structures is 15 feet.
- C. Accessory structures are prohibited within the front setback.
- D. Accessory structures may be located within a required side or rear setback provided they are located a minimum of five feet from the side and rear property lines.

(Ord. 18-23 §2; Ord. 22-06 §2; Ord. 22-10 §2)

CHAPTER 18.250 **Courtyard Units**

§ 18.250.010. Purpose.

The purpose of this chapter is to provide clear and objective standards for courtyard unit development. Optional alternative standards are also provided for courtyard unit development. Courtyard unit development has the following characteristics:

- A. The development consists of attached dwelling units of limited size and height;
- B. The buildings containing the dwelling units are arranged around a courtyard that provides shared open space among the units;
- C. The courtyard opens to the street and provides a visual and physical connection to the interior of the development and the entrance-bearing facades of the dwelling units;
- D. Internal pathways connect the units to the shared site elements and to the adjacent sidewalk;
- E. Off-street parking areas are efficiently designed and screened; and
- F. The overall design emphasizes sustainable development patterns and climate resiliency.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.250.020. Applicability.

The standards of this chapter apply to courtyard unit development wherever this housing type is allowed as provided in the use and housing type tables in Chapter 18.110, Residential Zones and Chapter 18.120, Commercial Zones. Additional standards apply in the River Terrace Plan District, as provided in Chapter 18.640, River Terrace Plan District.

(Ord. 18-23 §2; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.250.030. Review Process.

Courtyard unit developments require review through one of the following:

- A. A courtyard unit development that complies with all of the clear and objective standards of Section 18.250.050 requires development permits.
- B. A courtyard unit development that does not comply with all of the clear and objective standards of Section 18.250.050 requires a site development review application, as provided in Paragraph 18.780.040, subject to the alternative standards of Section 18.240.060 and any other applicable standards in this title.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.250.040. General Provisions.

Adjustments to the clear and objective standards of Section 18.250.050 are prohibited.

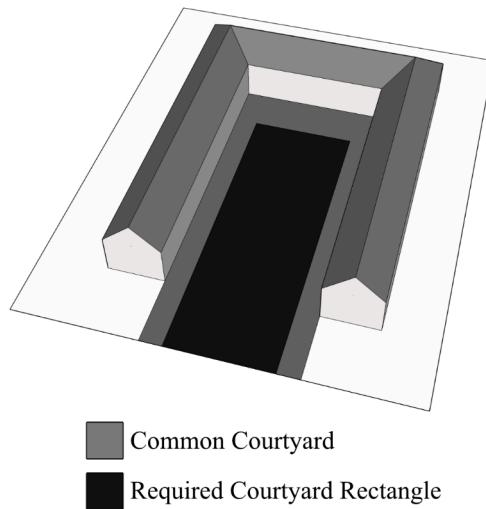
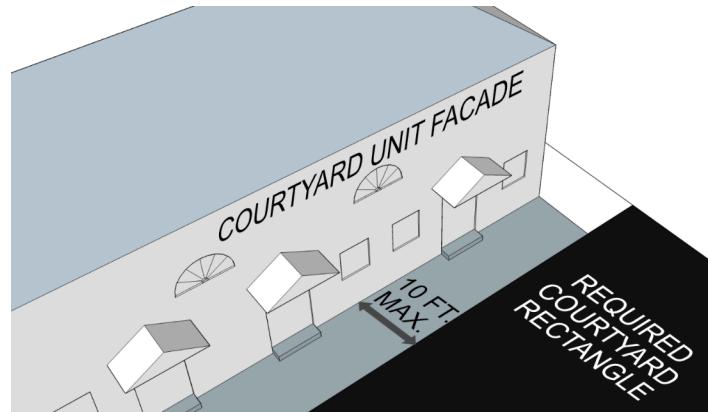
(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.250.050. Clear and Objective Standards.

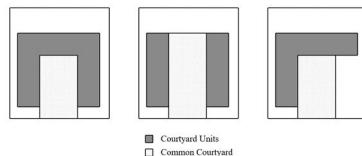
- A. Unit count. The required number of dwelling units in courtyard unit development is

determined as follows:

1. A courtyard unit development must contain a minimum of five dwelling units and a maximum of 12 dwelling units.
 2. A minimum of one dwelling unit is required for every 2,000 square feet of gross lot area. Any designated sensitive lands on the lot are included in the gross lot area. Any dedications for public improvements or public access are not included in the lot area.
- B. Minimum lot width. The minimum lot width is 75 feet.
- C. Setbacks. Setbacks apply only to the perimeter of the courtyard unit development.
1. The minimum front and side setbacks are 10 feet.
 2. The minimum rear setback is 15 feet.
 3. The maximum setback from a front street property line is 20 feet.
- D. Common courtyard. A single common courtyard must be provided. This common courtyard is not required to be rectangular; however, a single rectangle meeting size and location standards must be entirely contained within the common courtyard as shown in Figure 18.250.1. The rectangle is a portion of the common courtyard used to demonstrate compliance with all of the standards listed below.
1. The minimum size of the rectangle is 15% of the gross lot area;
 2. The rectangle must abut a minimum of 15% of the length of a single street property line;
 3. The rectangle must not abut more than 40% of the length of a single street property line;
 4. The rectangle must be a minimum of 15 feet wide along its entire length.
 5. Each building must have all points along the courtyard-facing facade located entirely within 10 feet of the rectangle.
 6. Dwelling units and parking and maneuvering areas are prohibited within the rectangle.

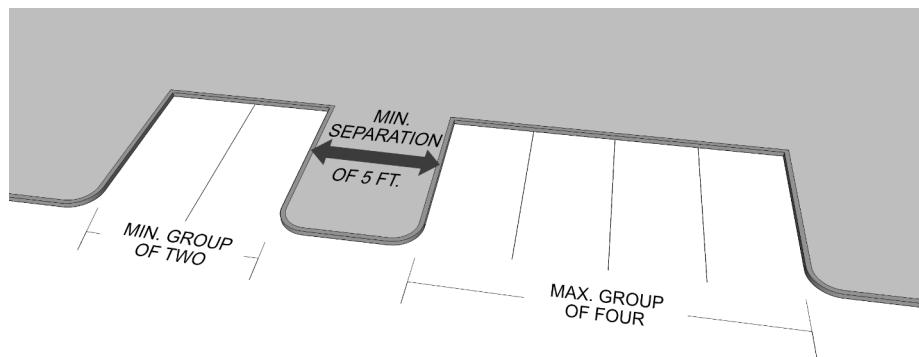
Figure 18.250.1 Common Courtyard Relationship to Required Rectangle**Figure 18.250.2 Required Courtyard Frontage for Courtyard Units**

- E. Configuration of dwelling units. Dwelling units must be attached, except that the dwelling units may be provided in two detached buildings of at least three dwelling units each. See Figure 18.250.2.
- F. Location of dwelling units. The dwelling units must be arranged around the common courtyard. If dwelling units are provided in two detached buildings, the buildings must face each other across the common courtyard. See Figure 18.250.2.

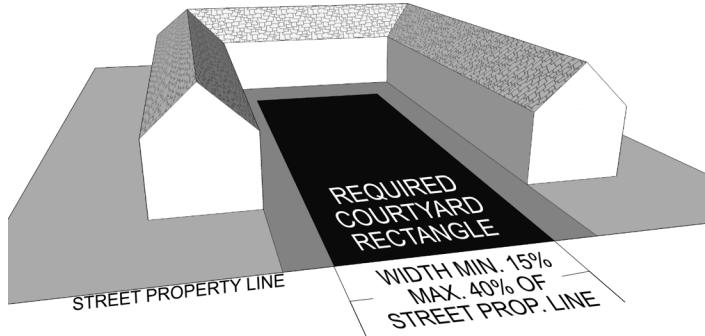
Figure 18.250.2 Possible Configurations and Locations of Dwelling Units

G. Parking. The provisions and standards of Chapter 18.410, Off-Street Parking and Loading, apply. The following additional standards also apply:

1. Number of spaces. A maximum of 1.2 off-street parking spaces are allowed for each dwelling unit. Fractional parking space maxima are rounded down to the nearest whole number.
2. Grouping. Off-street parking must be provided in groups of two to four parking spaces where all spaces in a group must be contiguous. See Figure 18.250.3.
3. Location.
 - a. Off-street parking spaces must be located a minimum of 20 feet from any street property line, except that parking spaces may be provided within five feet of a property line along an alley.
 - b. Off-street parking spaces must be located a minimum of 10 feet from any property line that does not abut a street, alley, or public right-of-way.
 - c. Off-street parking spaces must be located a minimum of five feet from any public access easement.
 - d. Off-street parking space groups must be separated by a minimum of five feet on all sides from all other parking space groups and dwelling units on the site. If this separation area is 10 feet or less in width, it must be landscaped to meet the L-2 standard, as provided in Table 18.420.1, except that trees are not required.
4. Garages and carports. Garages and carports are prohibited.
5. Screening. Off-street parking spaces must meet the following:
 - a. They must be screened from the street to the S-4 standard if located within 100 feet of a street property line.
 - b. They must be screened from adjacent properties to the S-3 standard, as provided in Table 18.420.2.

Figure 18.250.3 Parking Grouping and Separation

- H. Pedestrian access. An accessible path a minimum of five feet in width must be provided that connects the main entrance of each dwelling unit to the following areas:
1. At least one parking areas on the lot,
 2. The common courtyard, and
 3. Sidewalks in all adjacent rights-of-way, including at least one connection through the required courtyard rectangle. See Figure 18.250.4.

Figure 18.250.4 Pedestrian Connection Along Required Common Rectangle

- I. Landscaping. The standards and provisions of Section 18.420.030 apply, except for Paragraphs 18.420.030.A.2 and 18.420.030.A.3. The following additional standards also apply:
1. Common courtyards must meet the L-1 standard, as provided in Table 18.420.1.
 2. A minimum of 33% tree canopy must be provided. The method for determining tree canopy is provided in Section 10 Part 3 Subpart M of the Urban Forestry Manual (UFM). All required trees must be a minimum caliper of 1.5 inches at the time of planting and meet the standards in Section 13 Part 2 and Appendix 3 of the UFM for soil volume and species. Trees planted to meet this standard are development trees. The applicant must pay the tree inventory fee listed in the city's Master Fees and

Charges Schedule.

3. The minimum number of required street trees is determined by dividing the length in feet of the site's street frontage by 40 feet. When the result is a fraction, the minimum number of street trees is the nearest whole number. More than the minimum number of street trees may be required along the site's frontage depending upon the stature of trees chosen and the specific spacing standards for the chosen trees.
 - a. Street trees must be planted within the right-of-way in accordance with all standards of the city's UFM.
 - b. An existing tree may be used to meet the street tree standards provided that:
 - i. The tree is located in the public right-of-way, and
 - ii. The tree meets the UFM standards for street trees.

J. Fencing.

1. A fence at least six feet in height must be provided at the perimeter of the site, within three feet of rear and side property lines, except that a fence is not required in the front setback.
2. Fences located within the required front setback must not exceed three feet in height even when the lot abuts a collector or arterial street.
3. Fences located anywhere other than within three feet of a side or rear lot line not exceed three feet in height, except for fences used to meet the screening requirements of Paragraphs 18.250.050.G.5 and 18.250.050.K.

K. Service areas. Service areas including but not limited to waste collection areas and utility cabinets must not be located in required setbacks or in the required courtyard rectangle, and must be screened to the S-1 standard as provided in Table 18.420.2.**L. Floor area.**

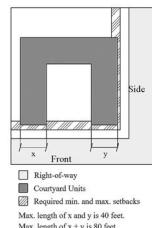
1. The maximum floor area of each individual dwelling unit in a courtyard unit development is 1,100 square feet.
2. The average floor area of all dwelling units in a courtyard unit development must not exceed 900 square feet.

M. Height. The maximum height of a courtyard unit building is 18 feet.**N. Entrances.** A minimum of 75% of the dwelling units must have main entrances that are either parallel or offset no more than 45 degrees from the closest edge of the required courtyard rectangle. Dwelling units within 20 feet of a street property line with their entrances either parallel or offset no more than 45 degrees from the street property line may count toward this standard.**O. Facade length.**

1. Front facades within the required front setback must not exceed 40 feet in length. See Figure 18.250.5.

2. The total length of front facades within the required front setbacks must not exceed 80 feet in length. See Figure 18.250.5.
3. Street-facing side facades on corner lots may be any length.

Figure 18.250.5 Facade Length Within Required Front Setbacks



- P. Windows. The minimum total area of all windows and doors on building facades is 12%. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the portion of a door, other than a garage door, that moves and does not include the frame.

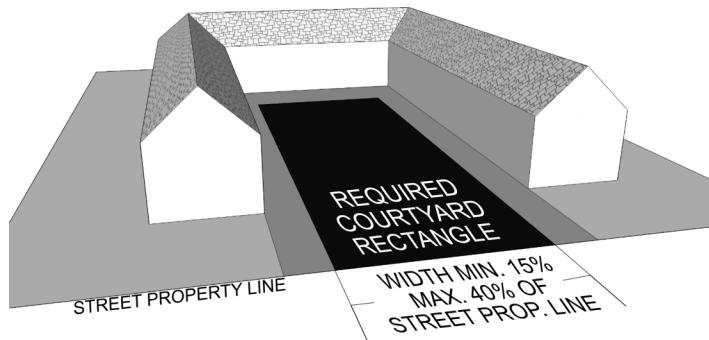
(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.250.060. Alternative Standards.

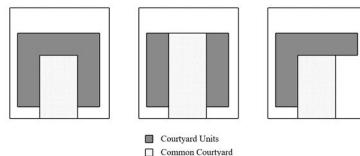
- A. Unit count. The required number of units in a courtyard unit development is determined as follows:
 1. A courtyard unit development must contain a minimum of five dwelling units; and
 2. A minimum of one dwelling unit is required for every 1,500 square feet of gross lot area. Any designated sensitive lands on the lot are included in the gross lot area. Any dedications for public improvements or public access are not included in the lot area.
- B. Minimum lot width. The minimum lot width is 75 feet.
- C. Setbacks. Setbacks apply only to the perimeter of the courtyard unit development.
 1. The minimum front and side setbacks are 10 feet.
 2. The minimum rear setback is 15 feet.
 3. The maximum setback from any street property line is 20 feet.
- D. Common courtyards.
 1. Number. A common courtyard must be provided for every 12 courtyard units, or portion thereof. The maximum number of courtyards in a courtyard unit development is determined by dividing the total number of dwelling units in the development by 12. When this calculation results in a fraction, the result will be rounded up to the nearest consecutive whole number. A minimum of one courtyard must meet the primary courtyard standards.
 2. Size.
 - a. The minimum total area of all required common courtyards is 15% of the total

gross area of the development site.

- b. The minimum area of the primary courtyard is 10% of the total gross area of the development site.
 - c. The maximum area that may count toward meeting the courtyard area standard is as shown in Figure 18.240.6. This area includes the area of the shape created by:
 - i. The courtyard-facing facade of each building containing dwelling units,
 - ii. A series of imaginary straight lines drawn between the corners of buildings facing each other across the courtyard, as measured at ground level, and
 - iii. For primary courtyards, the edge of the courtyard along the street property line and a perpendicular line extending from the street property line to the edge of each courtyard-facing facade.
3. Design.
- a. Parking and maneuvering areas are prohibited within all common courtyards.
 - b. At least one side of the primary courtyard must abut a single street property line for a minimum of 15% and a maximum of 40% of the length of that street property line. See Figure 18.240.7.
 - c. The courtyard must be at least 15 feet wide along any imaginary line drawn perpendicular to its edges, as defined in Subparagraph 18.250.060.D.2.c above.
 - d. Sight-obstructing structures or shrubs more than three feet in height must not be located in the primary common courtyard within 50 feet of any street property line.

Figure 18.250.6 Common Courtyard Measurement**Figure 18.240.7 Common Courtyard Width at Street Property Line**

- E. Configuration of dwelling units. Dwelling units must be attached, except that the dwelling units may be provided in two detached buildings of at least three dwelling units each. See Figure 18.250.6.
- F. Location of dwelling units. The dwelling units must be arranged around the common courtyard. If dwelling units are provided in two detached buildings, the buildings must face each other across the common courtyard. If a development includes more than 12 dwelling units, then each building containing dwelling units must be arranged adjacent to or around at least one courtyard. See Figure 18.250.8.

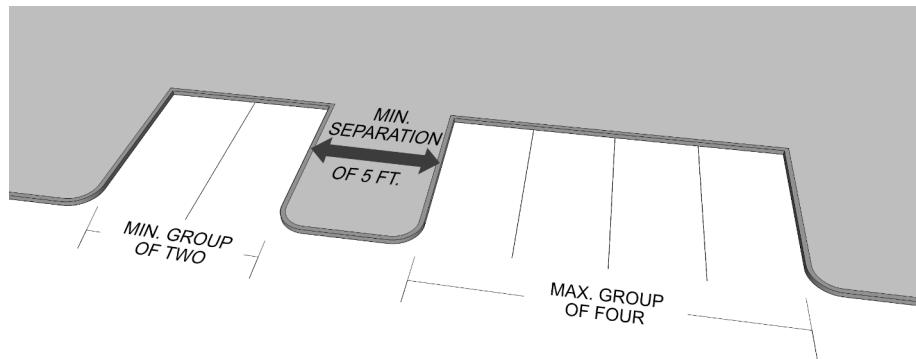
Figure 18.250.8 Possible Configurations and Locations of Dwelling Units

G. Parking. The provisions and standards of Chapter 18.410, Off-Street Parking and Loading, apply. The following additional standards also apply:

1. Number of spaces. A maximum of 1.2 off-street parking spaces are allowed for each dwelling unit. Fractional parking space maxima are rounded down to the nearest whole number.
2. Grouping. Off-street parking must be provided in groups of two to four parking spaces where all spaces in a group must be contiguous. See Figure 18.250.9.
3. Location.
 - a. Off-street parking spaces must be located a minimum of 20 feet from any street property line, except that parking spaces may be located a minimum of five feet from property line along an alley.
 - b. Off-street parking spaces must be located a minimum of 10 feet from any property line that does not abut a street, alley, or other public right-of-way.
 - c. Off-street parking spaces must be located a minimum of five feet from any public access easement.
 - d. Off-street parking space groups, including those provided in garages or carports, must be separated by a minimum of five feet on all sides from all other parking space groups, garages or carports, and dwelling units on the site. If this separation area is 10 feet or less in width, it must be landscaped to meet the L-2 standard, as provided in Table 18.420.1, except that trees are not required. Separation areas between garages are exempt from the landscaping requirement. See Figure 18.250.9.
4. Garages and carports.
 - a. The maximum size for any detached garage or carport is 750 square feet and the maximum height is 15 feet. The square footage of a carport is the total area covered by a roof.
 - b. Each detached garage or carport must not contain more than four vehicle parking spaces.
5. Screening. Off-street parking spaces provided on paved surfaces or in carports must meet the following:
 - a. They must be screened from the street to the S-4 standard if located within 100 feet of a street property line.

- b. They must be screened from adjacent properties to the S-3 standard, as provided in Table 18.420.2.

Figure 18.250.9 Parking Grouping and Separation



- H. Pedestrian access. An accessible path a minimum of five feet in width must be provided that connects the main entrance of each dwelling unit to the following areas:
1. At least one parking space group on the lot,
 2. At least one common courtyard, and
 3. Sidewalks in all adjacent rights-of-way, including at least one connection to a sidewalk along the required primary common courtyard.
- I. Landscaping. The standards and provisions of Section 18.420.030 apply, except for Paragraphs 18.420.030.A.2 and 18.420.030.A.3. The following additional standards also apply:
1. Common courtyards must meet the L-1 standard, as provided in Table 18.420.1.
 2. A minimum of 33% tree canopy must be provided. The method for determining tree canopy is provided in Section 10 Part 3 Subpart M of the Urban Forestry Manual (UFM). All required trees must be a minimum caliper of 1.5 inches at the time of planting and meet the standards in Section 13 Part 2 and Appendix 3 of the UFM for soil volume and species. Trees planted to meet this standard are development trees. The applicant must pay the tree inventory fee listed in the city's Master Fees and Charges Schedule.
 3. The minimum number of required street trees is determined by dividing the length in feet of the site's street frontage by 40 feet. When the result is a fraction, the minimum number of street trees is the nearest whole number. More than the minimum number of street trees may be required along the site's frontage depending upon the stature of trees chosen and the specific spacing standards for the chosen trees.
 - a. Street trees must be planted within the right-of-way wherever practicable. Street trees may be planted a maximum of six feet from the right-of-way in an easement when planting within the right-of-way is not practicable as determined by the City Engineer.

- b. An existing tree may be used to meet the street tree standards provided that:
 - i. The largest percentage of the tree trunk immediately above the trunk flare or root buttresses is either within the subject site or within the right-of-way immediately adjacent to the subject site; and
 - ii. The tree would be permitted as a street tree in compliance with Urban Forestry Manual street tree planting and soil volume standards if it were newly planted.

J. Fencing.

1. A fence at least six feet in height must be provided at the perimeter of the site, within three feet of rear and side property lines, except that a fence is not required in the front setback.
2. Fences located within the required front setback must not exceed three feet in height even when the lot abuts a collector or arterial street.
3. Fences located anywhere other than within three feet of a side or rear lot line not exceed three feet in height, except for fences used to meet the screening requirements of Paragraphs 18.250.060.G.5 and 18.250.060.K.

K. Service areas.

1. Waste collection areas must be located to minimize noise and odor impacts to adjoining residentially-zoned property to the degree practicable.
2. Service areas, including but not limited to waste collection areas and utility cabinets, must not be located in required setbacks or in a required common courtyard, and must be screened to the S-1 standard as provided in Table 18.420.2.

L. Floor area.

1. The maximum floor area of each individual dwelling unit in a courtyard unit development is 1,200 square feet.
2. The average floor area of all dwelling units in a courtyard unit development must not exceed 1,000 square feet.

M. Height. The maximum height of a courtyard unit building is 25 feet.

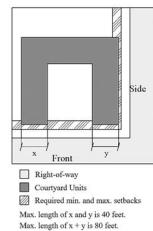
N. Entrances. A minimum of 75% of the dwelling units must have main entrances that are either parallel to or offset no more than 45 degrees from the closest edge of the required common courtyard. Dwelling units within 20 feet of a street property line with their entrances either parallel to or offset no more than 45 degrees from the street property line may count toward this standard.

O. Facade length.

1. Front facades within the required front setback must not exceed 50 feet in length. See Figure 18.250.8.
2. The total length of front facades within the required front setbacks must not exceed 100 feet in length. See Figure 18.250.10.

3. Street-facing side facades on corner lots may be any length.

Figure 18.250.10 Facade Length Within Required Front Setbacks



- P. Windows. The minimum total area of all windows and doors on street-facing facades is 12%. The minimum total area of all windows and doors on all other facades is 10%. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the portion of a door, other than a garage door, that moves and does not include the frame.

(Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.250.070. Accessory Structures.

Accessory structures are allowed subject to the following:

- The total maximum floor area of all accessory structures on a lot is 528 square feet. The floor area of garages or carports does not count toward this maximum. Courtyard unit developments with more than 12 dwelling units on a lot are allowed an additional 500 square feet of accessory structure floor area, provided that no individual accessory structure exceeds 528 square feet in floor area.
- The maximum height of accessory structures is 15 feet.
- Accessory structures are prohibited within the required front setback.
- Accessory structures may be located within a required side or rear setback provided they are located a minimum of five feet from the side and rear property lines.

(Ord. 18-23 §2; Ord. 19-09 §1; Ord. 22-06 §2; Ord. 22-10 §2)

**CHAPTER 18.260
Mobile Home Parks**

§ 18.260.010. Purpose.

The purpose of this chapter is to establish standards for the placement of mobile homes in mobile home park developments.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

§ 18.260.020. Applicability.

The standards of this chapter apply to mobile home park development wherever this housing type is allowed as provided in the use and housing type tables in Chapter 18.110, Residential Zones and Chapter 18.120, Commercial Zones. Additional standards apply in the River Terrace Plan District, as provided in Chapter 18.640, River Terrace Plan District.

(Ord. 19-09 §1)

§ 18.260.030. Application Type.

Mobile home park development requires a site development review application.

(Ord. 19-09 §1)

§ 18.260.040. Mobile Home Park Standards.

A. Minimum development standards. Mobile home park development must meet the following minimum development standards:

1. Gross lot area of one acre;
2. Street frontage of 100 feet;
3. Lot depth of 150 feet;
4. Front and rear setback of 25 feet;
5. Side setback of 10 feet, except on a corner lot the street side setback is 25 feet;
6. Sixty square feet of outdoor recreation area, suitably improved for recreational use, provided for each dwelling unit in addition to required setbacks. Each recreation area must be a minimum size of 2,500 square feet; and
7. Landscape area of 20% of the mobile home park area.

B. Other standards.

1. Evidence must be provided that the park will be eligible for a certificate of sanitation required by state law.
2. Each site must be adequately serviced by public facilities such as water supply, sewers, sidewalks, and improved streets.
3. Each dwelling unit must be served with a water, sewer, and electrical connection. The electrical connection must provide for 110 and 220-volt service.

4. All mobile homes, accessory buildings, or other structures must be at least 10 feet from another mobile home, accessory building, or other structure.
5. The maximum height of all structures is 25 feet.
6. Each mobile home placed in a mobile home park must be inspected by the building official and meet the following standards:
 - a. Each mobile home must comply with all applicable state and federal regulations;
 - b. Each mobile home must be in good repair, notwithstanding deterioration that may have occurred due to misuse, neglect, accident, or other cause;
 - c. Each mobile home must contain a water closet, lavatory, shower or tub, and a sink in a kitchen or other food preparation space.
7. Each vehicular way in a mobile home park must be named and marked with signs that are similar in appearance to those used to identify public streets, and a map of the named vehicular ways must be provided to the applicable fire district, the police department, and the public works department.
8. If a mobile home space or permanent structure in the park is more than 500 feet from a public fire hydrant, the park must provide:
 - a. Water supply lines designed with fire hydrants that are within 500 feet of such space or structure; and
 - b. Each hydrant within the park must be located on a vehicular way and comply in design and capacity to city and the applicable water district standards.
9. Each mobile home in a mobile home park must have a continuous perimeter skirting installed in compliance with state regulations, which must be of the same material and finish as the exterior of the mobile home.
10. The wheels, tongue, and traveling lights of each mobile home in a mobile home park must be removed upon installation of the dwelling unit.
11. Accessways or driveways must be lighted in compliance with city standards.
12. Primary access to the mobile home park must be from a public street and comply with Chapter 18.920, Access, Egress, and Circulation; and
 - a. Where necessary, additional street right-of-way must be dedicated to the city to maintain adequate traffic circulation;
 - b. Access driveways connecting to a public street must be at least 36 feet, of which at least 20 feet must be paved; and
 - c. Driveways must be designed to provide for all maneuvering and parking without encroaching on a public street.
13. The maximum number of mobile homes in the park or subdivision is limited to the number of lots that would be allowed to be created using the small form residential lot standards as provided in Chapter 18.805, Lot Standards.

14. Where landfill or development is allowed within or adjacent to the special flood hazard area, the city will require the dedication of sufficient open land area for a greenway adjacent to and within the special flood hazard area. This area includes portions at a suitable elevation for the construction of a path, sidewalk, or trail with the special flood hazard area in compliance with the adopted trails plan or transportation plan.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2)

CHAPTER 18.270 **Quads**

§ 18.270.010. Purpose.

The purpose of this chapter is to provide clear and objective and alternative standards for quad development to meet the requirements of state law and Oregon Statewide Planning Goal 10. Quad development has the following characteristics:

- A. The development is made up of four attached dwelling units of limited size;
- B. The configuration of the units provides visual access to the street for all dwelling units;
- C. The form of the building resembles a two-story single detached house in size and appearance;
- D. Off-street parking areas are efficiently designed and screened; and
- E. The overall design emphasizes sustainable development patterns and climate resiliency.
(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.270.020. Applicability.

The standards of this chapter apply to quad development wherever this housing type is allowed as provided in the use and housing type tables in Chapter 18.110, Residential Zones and Chapter 18.120, Commercial Zones. Additional standards apply in the River Terrace Plan District, as provided in Chapter 18.640, River Terrace Plan District.

(Ord. 18-23 §2; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.270.030. Compliance.

Quad development must comply with the clear and objective standards of Section 18.270.040 and all other applicable standards of this title.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.270.040. Clear and Objective Standards.

- A. Unit count. A quad development must contain four dwelling units.
- B. Configuration of dwelling units.
 - 1. Two dwelling units must be wholly contained within a first story. Two dwelling units must be wholly contained within a second story.
 - 2. All dwelling units must have at least one street-facing window.
- C. Lot size and width. Dimensional lot standards are provided in Chapter 18.805 Lot Standards. Quad development is not allowed on lots that do not meet the dimensional lot standards for the base zone.
- D. Development standards. Development standards are provided in Table 18.270.1.

Table 18.270.1 Development Standards for Quads			
Standard	RES-A and RES-B	RES-C and RES-D	MUR-1 and MUR-2
Minimum Setbacks (ft)			
- Front	15	10	None
- Street side	15	10	None
- Side	5	5	5
- Rear	15	15	15
Maximum Setbacks (ft)			
- Front	20	15	10
- Street side	20	15	10
Maximum Height (ft)	30	35	35
Maximum Lot Coverage	80%	80%	80%
Minimum Landscape Area	20%	20%	20%

E. Parking. The provisions and standards of Chapter 18.410, Off-Street Parking and Loading, apply. The following additional standards also apply:

1. Number of spaces. The maximum number of allowed off-street vehicle parking spaces is provided in Table 18.270.2.

Table 18.270.2 Quad Vehicle Parking Maximums by Zone				
	RES-A and RES-B	RES-C	RES-D	MUR-1 and MUR-2
Maximum off-street vehicle parking spaces	5	4	4	4

2. Grouping. Off-street parking spaces including parking provided in garages or carports must be grouped.
3. Location.
 - a. Off-street parking spaces, including those in garages or carports, must be located a minimum of 20 feet from any street property line, except alley property lines, where parking may be provided within five feet of the property line.
 - b. Off-street parking spaces, including those in garages or carports, must not be located within 10 feet of any other property line.
 - c. Covered parking may be provided under the first story of the quad, provided that this parking is accessed from the rear of the building and is not visible from the

street.

4. Garages and carports. One garage or carport is allowed per quad development, subject to the following:
 - a. The maximum size is 750 square feet; and
 - b. The maximum height is 15 feet.
- F. Pedestrian access. An accessible path must be provided that connects the main entrance of the quad to the following:
 1. All parking areas on the site; and
 2. Sidewalks in the adjacent right-of-way.
- G. Service areas. Service areas, including, but not limited to, waste collection areas and utility cabinets must not be located in required setbacks and must be screened to the S-1 standard, as provided in Table 18.420.2.
- H. Floor area. The maximum square footage of each dwelling unit within a quad development is 1,000 square feet.
- I. Entrances. At least one main entrance to the quad must be either parallel to or offset no more than 45 degrees from a street property line.
- J. Exterior staircases. Exterior staircases to the second story of a quad are prohibited.
- K. Windows. The minimum total area of all windows and doors on all quad facades is 12%. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the area of the portion of a door, other than a garage door, that moves and does not include the frame.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.270.050. Accessory Structures.

Accessory structures are allowed subject to the following:

- A. The total maximum floor area of all accessory structures on the lot is 528 square feet. The floor area of garages or carports does not count toward this maximum.
- B. The maximum height of accessory structures is 15 feet.
- C. Accessory structures are prohibited within the front setback.
- D. Accessory structures may be located within the side, street side, or rear setback provided they are a minimum of five feet from the side and rear property lines.

(Ord. 18-23 §2; Ord. 22-06 §2; Ord. 22-10 §2)

CHAPTER 18.280 **Rowhouses**

§ 18.280.010. Purpose.

The purpose of this chapter is to provide clear and objective standards for rowhouse development to meet the requirements of state law and Oregon Statewide Planning Goal 10. Rowhouse development has the following characteristics:

- A. The development consists of dwelling units that are attached and share common side walls;
- B. The rowhouses engage directly with the street through their placement and the location of their entrances;
- C. Off-street parking areas are efficiently designed with shared access and alley access where practicable to minimize the impact of accessways on the pedestrian realm; and
- D. The overall design emphasizes sustainable development patterns and climate resiliency.

(Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.280.020. Applicability.

- A. The standards of this chapter apply to rowhouse development in the RES-A, RES-B, RES-C, RES-D, RES-E, MUR-1, and MUR-2 zones. Additional standards apply in the River Terrace Plan District, as provided in Chapter 18.640, River Terrace Plan District. An applicant may elect to apply the standards of Chapter 18.230, Apartments, when proposing rowhouse development in base zones where apartment development is allowed.
- B. Rowhouse development in the MUC-1 zone is subject to the standards of Chapter 18.620, Bridgeport Village Plan District.
- C. This chapter does not apply to rowhouse development in the MU-CBD and TMU zones. Rowhouse development in these zones is subject to the approval processes and standards of Chapter 18.650, Tigard Downtown Plan District, and Chapter 18.660, Tigard Triangle Plan District, respectively.

(Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.280.030. Compliance.

Rowhouse development must comply with the clear and objective standards of Section 18.280.040 and all other applicable standards of this title.

(Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.280.040. Clear and Objective Standards.

- A. Unit count. A rowhouse development must contain at least two dwelling units. There is no maximum number of dwelling units, except that in the RES-A through RES-C zones, the maximum number of dwelling units per grouping is five.
- B. Lot size and width. Dimensional lot standards are provided in Chapter 18.805 Lot Standards. Rowhouse development is not allowed on lots that do not meet the dimensional lot standards for the base zone.

C. Development standards. Development standards are provided in Table 18.280.1.

Table 18.280.1 Development Standards for Rowhouses					
Standard	RES-A and RES-B	RES-C and RES-D	RES-E	MUR-1	MUR-2
Minimum Setbacks (ft)					
- Front	20	15	15	0	10
- Street side	20	15	10	5	10
- Side [1]	5	5	5	5	5
- Rear [2]	25	15	15	15	15
Maximum Setbacks (ft)					
- Front	20	20	20	20	20
- Street side	20	20	20	20	20
Maximum Height	35	35	45	75	45
Maximum Lot Coverage	80%	80%	80%	80%	80%
Minimum Landscape Area	20%	20%	20%	20%	20%

Notes:

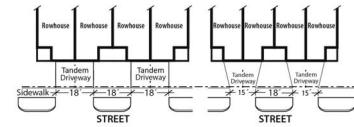
- [1] This standard does not apply to a common wall lot line where the dwelling units are attached.
- [2] There is no rear setback requirement when the rear property line abuts an alley.

D. Parking. The provisions and standards of Chapter 18.410, Off-Street Parking and Loading, apply.

1. Access. Access to off-street parking areas for rowhouse development may be taken through tandem driveways, shared access, or from an alley. The following requirements apply to each situation in addition to the relevant sections of Chapter 18.920, Access, Egress, and Circulation.
 - a. Tandem driveways. If access is taken from a street other than an alley and access is not shared development-wide, the following standards apply. See Figure 18.280.1 for examples.
 - i. A maximum of one driveway is allowed for every two dwelling units, except that each rowhouse grouping of three or more dwelling units may include one driveway that provides access to a single dwelling unit. Shared access is subject to the requirements of Subsection 18.920.030.C.
 - ii. The minimum width for a driveway is 15 feet, except that a single unshared driveway may be 10 feet in width.

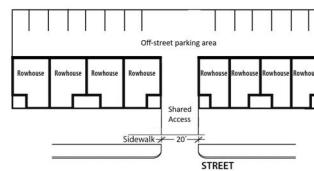
- iii. The maximum width for a driveway is 18 feet, except that the maximum width for a single unshared driveway is 12 feet.
- iv. Driveways must be located a minimum of 18 feet apart to minimize vehicle conflicts with pedestrians. Distance between driveways is measured along the front property line.

Figure 18.280.1 Access Configuration for Tandem Driveways



- b. Shared access. If access for all dwelling units in a rowhouse development is shared and off-street parking areas are provided at the side or rear of a rowhouse development rather than at the front of each dwelling unit, the minimum paved width of the shared access is 20 feet and the maximum width is 24 feet.

Figure 18.280.2 Access Configuration for Shared Access



- c. Alley access. If access is taken from an alley, the following standards apply:
 - i. A maximum of one access is allowed for each dwelling unit.
 - ii. The minimum paved width of an alley access is 10 feet.
- 2. Location. Off-street parking areas, including detached garages and carports, must be located a minimum of 20 feet from any street property line, except alley property lines, where no minimum setback is required.
- 3. Garages and carports. Garages and carports in rowhouse developments are subject to the following:
 - a. Detached garages or carports must be located a minimum of 40 feet from a street property line where rowhouses provide main entrances.
 - b. The maximum size for a detached garage or carport is 200 square feet per rowhouse served by the structure.
 - c. The maximum height for a detached garage or carport is 15 feet.
- 4. Screening. Screening of parking areas is not required, except that in the RES-A through RES-C zones, off-street parking areas provided at the side or rear of buildings and not in garages must be screened from adjacent properties to the S-3 standard, as provided in Table 18.420.2. The required screening must be provided on the same site as the development.

- E. Pedestrian access. Rowhouse developments of five or more dwelling units must provide a paved, accessible pedestrian path that connects the main entrance of each rowhouse to the following:
1. Sidewalks in the right-of-way abutting the site;
 2. Common buildings such as laundry and recreation facilities;
 3. Parking areas; and
 4. Common open space and play areas.
- F. Service areas. Service areas including but not limited to shared waste collection areas and utility cabinets must not be located in required setbacks and must be screened to the S-1 standard, as provided in Table 18.420.2.
- G. Dwelling unit definition. Each dwelling unit must include at least one of the following on the street-facing facade:
1. A roof dormer that is a minimum of four feet in width,
 2. A balcony that is a minimum of two feet in depth and accessible from an interior room,
 3. A bay window that projects a minimum of two feet from the facade, or
 4. A facade that is offset a minimum of two feet in depth from the neighboring dwelling unit.
- H. Main entrance. The main entrance of each rowhouse must face the street. If a rowhouse has more than one street property line, the entrance may face either street.
- I. Porches. Each rowhouse in a grouping must include a porch that is a minimum of 48 square feet in area with no horizontal dimension less than six feet. A balcony on the same facade as the main entrance may substitute for a front porch, provided that the following are met:
1. The area of the balcony must be a minimum of 48 square feet,
 2. The balcony must be a minimum of eight feet in width,
 3. The floor of the balcony must be a maximum of 15 feet above grade, and
 4. The balcony must be accessible from the interior living space of the house.
- J. Roofs. Roofs must be sloped, with a minimum pitch of 4/12 and a maximum pitch of 14/12, except that a roof may be flat if it meets one of the following:
1. The space on top of the roof is used as a deck or balcony that is no more than 150 square feet in area and is accessible from an interior room; or
 2. The roof line includes a cornice that extends at least six inches from the facade and is a minimum of 12 inches in height.
- K. Exterior staircases. Exterior staircases to any story above the first story of a rowhouse are not allowed.

L. Windows. A minimum of 12% of the area of all street-facing facades on each individual dwelling unit must include windows or entrance doors. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the portion of a door, other than a garage door, that moves and does not include the frame. Half of the window area in the door of an attached garage may count toward meeting this standard.

(Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.280.050. Accessory Structures.

Accessory structures are allowed subject to the following standards:

- A. The maximum size of accessory structures is 528 square feet;
- B. The maximum height of accessory structures is 15 feet;
- C. Accessory structures are prohibited within the front setback; and
- D. Accessory structures may be located within the side or rear setback provided they are a minimum of five feet from the side and rear property lines.

(Ord. 18-28 §1; Ord. 22-06 §2)

**CHAPTER 18.290
Small Form Residential**

§ 18.290.010. Purpose.

The purpose of this chapter is to provide clear and objective standards for the establishment of small form residential development. Attached accessory dwelling units are considered small form residential development for the purposes of meeting the requirements of applicable state law and administrative rules. Small form residential development has the following characteristics:

- A. It contains between one and three dwelling units on the same lot;
- B. The dwelling units are attached;
- C. The dwelling units may be newly constructed or converted from existing dwelling spaces; and
- D. The dwelling units may share utilities where allowed by the applicable service provider.
(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.290.020. Applicability.

The standards of this chapter apply to small form residential development. Attached accessory dwelling units are considered small form residential development.

(Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.290.030. Compliance.

Small form residential development must comply with the clear and objective standards of Section 18.290.040 and all other applicable standards of this title.

(Ord. 22-06 §2)

§ 18.290.040. Clear and Objective Standards.

- A. Unit count.
 1. A maximum of three attached dwelling units are allowed per lot.
 2. A maximum of one detached accessory dwelling unit is allowed per lot, subject to the standards of Chapter 18.220 Accessory Dwelling Units. The total maximum number of dwelling units on a small form residential lot is three, including any detached accessory dwelling units. Detached accessory dwelling units are prohibited on lots with three small form residential dwelling units.
- B. Development standards. Development standards for small form residential development are provided in Table 18.290.1.

Table 18.290.1
Development Standards for Small Form Residential

Standard	RES-A	RES-B	RES-C	RES-D and RES-E [1]	MUC-1
Minimum Setbacks (ft)					
- Front	20	15	10	10	0 [2]
- Street side	20	15	10	10	0 [2]
- Side	5	5	5	5	0
- Rear	25	15	15	15	0
- Garage [3]	20	20	20	20	20
Maximum Height	30	30	35	35	70
Maximum Lot Coverage	80%	80%	80%	80%	90%
Minimum landscape area [4]	20%	20%	20%	20%	10%

Notes:

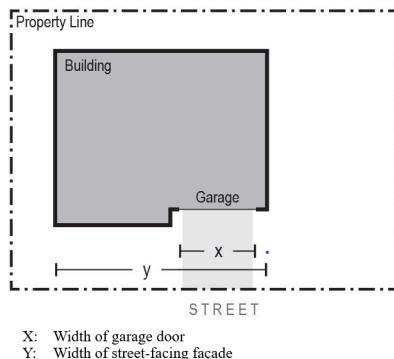
- [1] Development standards for small form residential development and allowed accessory uses and structures in the RES-E zone apply only to lots with existing nonconforming development. New construction of small form residential development is not allowed except as provided in Chapter 18.50, Nonconforming Circumstances.
- [2] The maximum front and street side setback is 20 feet.
- [3] The minimum garage setback applies to garages and carports. The minimum setback may be reduced to zero feet where vehicle access is taken from an alley.
- [4] The minimum landscape area must be planted to the L-1 standard. Landscaping standards are provided in Chapter 18.420, Landscaping and Screening. Small form residential development is exempt from the general provisions of Section 18.420.030.

C. Entrances. Entrances must meet the following standards:

1. At least one entrance per development must be set back no further than eight feet from the widest street-facing wall; and
2. The entrance used to meet this standard must be offset no more than 45 degrees from a line parallel to the front lot line. If the front lot is curved, the offset is measured from

a line tangent to the midpoint of the front lot line.

- D. Windows. A minimum of 12% of the area of all street-facing facades, excluding alley-facing facades, must include windows or doors. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the portion of a door, other than a garage door, that moves and does not include the frame.
 - 1. Garage doors designed for vehicle access may not be used to meet this standard.
 - 2. Windows in a garage door may be used to meet this standard.
 - 3. A maximum of two percent of the required window area may be frosted glass.
- E. Attached garages and carports. The purpose of these standards is to prevent garages and carports from obscuring or dominating the street-facing facade of residential buildings. An illustration of garage door width is shown in Figure 18.290.1. All attached garages or carports must meet the following standards, except for garages or carports on flag lots or where vehicle access to the garage or carport is taken from an alley.
 - 1. A garage door or carport entrance designed for vehicle access must not be closer to the street property line than a facade that encloses living area along the same street frontage, except as follows:
 - a. A garage door or carport entrance may extend up to five feet in front of a facade that encloses living area if there is a covered front porch with no horizontal dimension less than five feet and the garage door or carport entrance does not extend beyond the roof of the porch, excluding gutters.
 - b. A garage door or carport entrance may extend up to five feet in front of a facade that encloses living area if there is a second story above the garage that includes a street-facing window with a minimum area of 12 square feet and a horizontal offset of no more than two feet from the plane of the garage door.
 - 2. The total maximum width of all garage doors or carport entrances on a street-facing facade is 12 feet or 50% of the total width of the street-facing facade, whichever is greater. The width of a garage door is measured from inside the garage door frame. Where more than one garage door is proposed, the width of each garage door is measured separately. See Figure 18.290.1.

Figure 18.290.1 Garage Door Width

3. The total maximum width of all garage doors or carport entrances may be increased to 60% of the total width of the street-facing facade provided that a minimum of seven detailed design elements from the list below are included on the street-facing facade with the garage door or carport entrance.
 - a. Covered porch: a minimum depth of five feet, as measured horizontally from the face of the building wall, and a minimum width of five feet.
 - b. Recessed entrance area: A minimum depth of two feet, as measured horizontally from the face of the building wall, and a minimum width of five feet.
 - c. Wall offset: a minimum offset of 16 inches from one exterior wall surface to the other.
 - d. Dormer: a minimum width of four feet that is integrated into the roof form.
 - e. Roof eave: a minimum projection of 12 inches from the intersection of the roof and the building walls.
 - f. Roof offset: a minimum offset of two feet from the top surface of one roof to the top surface of the other.
 - g. Roof shingles: tile or fire-resistant roofing material.
 - h. Roof design: gable roof, hip roof, or gambrel roof design.
 - i. Roof pitch: a roof pitch of at least 500 square feet in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.
 - j. Horizontal lap siding: a minimum visible lap width of three to seven inches once installed. The siding material must be wood, fiber-cement, or vinyl to meet this standard.
 - k. Accent siding: brick, cedar shingles, stucco, or other accent material that covers a minimum of 40% of the facade.
 - l. Window trim: a minimum width of 2.5 inches and a minimum depth of 5/8 inches around all windows.

- m. Window recess: a minimum depth of three inches, as measured horizontally from the face of the building wall, for all windows except where a bay window is proposed that meets the standard in Subparagraph 18.290.040.C.3.n.
- n. Window projection (e.g., bay window): a minimum depth of two feet, as measured horizontally from the face of the building wall, and a minimum width of five feet.
- o. Balcony: a minimum depth of three feet and a minimum width of five feet that is accessible from an interior room.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.290.050. Accessory Structures.

Accessory structures are allowed on all lots with small form residential development subject to the following standards:

- A. The maximum size of accessory structures is 528 square feet on lots less than 2.5 acres and 1,000 square feet on lots 2.5 acres or larger;
- B. The maximum height of accessory structures is 15 feet;
- C. Accessory structures may not cause the lot to exceed the maximum lot coverage allowed in the base zone;
- D. Accessory structures are prohibited in the required front setback; and
- E. Accessory structures may be located in the required side, street side, or rear setback provided they are a minimum of five feet from the side, street side, or rear property lines, except for garages and carports, which are subject to specific setback standards for the side of the structure designed for vehicle access, as provided in Table 18.290.1.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

Part 18.300
NONRESIDENTIAL DEVELOPMENT STANDARDS

Note: A reference to 18.300 Nonresidential Development Standards is a reference to all of the chapters listed above.

**CHAPTER 18.310
Nonresidential General Provisions**

§ 18.310.010. Purpose.

The purpose of this chapter is to provide standards that are broadly applicable to all nonresidential development including mixed-use development with or without a residential component allowed in commercial and industrial zones.

(Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.310.020. Fence and Wall Standards.

Fences and walls may be located within required setbacks. Fences and walls located within required setbacks are subject to the standards in this section. Fences and walls located outside required setbacks are subject to the applicable standards in Chapter 18.320, Commercial Zone Development Standards, or Chapter 18.330, Industrial Zone Development Standards.

- A. Fences and walls in a required front setback may be a maximum of 3 feet in height where abutting a local or neighborhood street and a maximum of 6 feet in height where abutting a collector or arterial street.
- B. Fences and walls in a required side, street side, or rear setback may be a maximum of 8 feet in height. Fences and walls 7 feet or more in height require a building permit.
- C. Fences and walls must meet vision clearance area requirements in Chapter 18.930, Vision Clearance Areas.

(Ord. 18-28 §1)

§ 18.310.030. Exceptions to Setback, Height, and Parking Standards.

- A. Additional setbacks. Increased or different setbacks apply in the following situations:
 1. Where the ultimate right-of-way width, as shown in the Transportation System Plan, is wider than the current right-of-way width, required setbacks are measured from the ultimate right-of-way width.
 2. Where freestanding private communication and utility facilities that are accessory to an allowed use and not subject to the provisions of Chapter 18.450, Wireless Communication Facilities, are proposed, such facilities must be set back from all property lines a distance equal to or greater than the height of the facility. Freestanding communication or utility facilities include, but are not limited to, wind turbines and communication towers, antennas, and receivers.
- B. Exceptions to minimum setbacks.
 1. Required setbacks for all buildings, except garages, may be reduced for the purpose of preserving healthy noninvasive trees. Required front setbacks may be reduced by a maximum of 25 percent, and other required setbacks may be reduced by a maximum of 20 percent.
 2. Cornices, eaves, belt courses, sills, canopies, or similar architectural features may project a maximum of three feet into a required setback provided the projection does not reduce the width of any setback to less than three feet.

3. Fireplace chimneys may project a maximum of three feet into a required setback provided the projection does not reduce the width of any setback to less than three feet.
4. Unroofed porches, decks, or balconies three feet or less in height may project into a required rear or side setback provided the projection does not reduce the width of any setback to less than three feet. Unroofed porches may project a maximum of three feet into a required front setback.
5. Unroofed landings or stairs may project into a required front or rear setback.

C. Exceptions to maximum height.

1. Building projections not designed for human occupancy are not subject to the building height limitations of this title. Building projections not designed for human occupancy include, but are not limited to, chimneys, spires, domes, elevator shaft housings, flag poles, and antennas and receivers not subject to the provisions of Chapter 18.450, Wireless Communication Facilities.
2. Buildings may be a maximum of 75 feet in height provided all of the following are met:
 - a. The total floor area of the building does not exceed 1.5 times the area of the site;
 - b. All setbacks are a minimum of 50 percent of the building height; and
 - c. The site does not abut a residential zone.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-10 §2)

**CHAPTER 18.320
Commercial Zone Development Standards**

§ 18.320.010. Purpose and Definition.

- A. Purpose. The purpose of this chapter is to provide standards for nonresidential development in commercial zones that promote quality development and enhance the livability, walkability, and safety of the community.
- B. Definition. Nonresidential development includes mixed-use developments with or without a residential component and single-use developments that contain a civic, institutional, commercial, industrial, or other nonresidential use.

(Ord. 18-28 §1)

§ 18.320.020. Applicability.

- A. The standards of this chapter apply to nonresidential development in the C-N, C-C, C-G, C-P, MUC, MUE, MUE-1, MUE-2, MUR-1, and MUR-2 zones. Additional standards apply to nonresidential development in the River Terrace Plan District and Washington Square Regional Center Plan District as provided in Chapter 18.640, River Terrace Plan District, and Chapter 18.670, Washington Square Regional Center Plan District.
- B. Nonresidential development in the MUC-1 zone is subject to the standards of Chapter 18.620, Bridgeport Village Plan District.
- C. This chapter does not apply to nonresidential development in the MU-CBD and TMU zones. Nonresidential development in these zones is subject to the approval processes and standards of Chapter 18.650, Tigard Downtown Plan District, and Chapter 18.660, Tigard Triangle Plan District, respectively.
- D. Residential development in commercial zones is subject to the approval processes and standards of the applicable housing type in Chapter 18.200, Residential Development Standards.

(Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.320.030. Application Type.

Nonresidential development in commercial zones requires a site development review application, except where a conditional use or planned development application is required or proposed.

(Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.320.040. Development Standards.

- A. Base zone standards. Base zone development standards are provided in Table 18.320.1.

Table 18.320.1 Commercial Zone Development Standards for Nonresidential Development							
Standard	C-N and C-C	C-G	C-P	MUE	MUE-2 and MUR-2 [1]	MUR-1 [1]	MUC and MUE-1 [1]
Minimum Setback (ft)							
- <i>Front</i>	None	None	None	None	10	None	None
- <i>Street side</i>	None	None	None	None	10	5	None
- <i>Side</i>	0 or 20 [2]	0 or 20 [3]	0 or 20 [3]	0 or 20 [3]	0 or 20 [3]	0 or 20 [3]	0 or 20 [3]
- <i>Rear</i>	0 or 20 [2]	0 or 20 [3]	0 or 20 [3]	0 or 20 [3]	0 or 20 [3]	0 or 20 [3]	0 or 20 [3]
Maximum Setback (ft)							
- <i>Front</i>	20	None or 10 [4]	None	None	20	20	20
- <i>Street side</i>	20	None or 10 [4]	None	None	20	20	20
Minimum Height (ft)	None	None	None	None	None	2 stories	2 stories
Maximum Height (ft)	35	45	45	45	60	75	200
Maximum Lot Coverage	85%	85%	85%	80%	80%	80%	85%
Minimum Landscape Area	15%	15%	15%	20%	20%	20%	15%
Minimum FAR [5]	None	None	None	None	0.3	0.6	1.25
Maximum FAR [5]	None	None	None	0.4 [6]	None	None	None

Notes:

- [1] See Chapter 18.670, Washington Square Regional Center Plan District, for additional development standards.
- [2] Minimum side and rear setbacks are zero feet, except the minimum side and rear setbacks are 20 feet where the site abuts a residential zone.
- [3] Minimum side and rear setbacks are zero feet, except the minimum side and rear setbacks are 20 feet where the site abuts an RES-A through RES-D zone.

Notes:

[4]

There are no maximum front and street side setbacks, except maximum front and street side setbacks are 10 feet where the site is located within the Tigard Triangle Plan District. See Map 18.660.A.

[5]

The net development area, as defined in Section 18.40.020.A, is used to establish the lot area for purposes of calculating the floor area ratio (FAR). Residential floor area in mixed-use developments is included in the floor area calculation to determine conformance with FAR.

[6]

Commercial lodging uses are not subject to this requirement.

B. Landscaping and screening. All required landscaping, including landscaping used to meet screening or tree canopy standards, is subject to the general provisions of Chapter 18.420, Landscaping and Screening.

1. The minimum landscape area standard is provided in Table 18.320.1. Landscaping standards are provided in Section 18.420.040. Any landscape area that meets the L-2 standard may count toward meeting the minimum area standard.
2. Screening standards are provided in Section 18.420.050. Screening is required as follows:
 - a. Service areas and wall- and roof-mounted utilities must be screened to the S-1 standard. Service areas and utilities are also subject to the standards in Subsection 18.320.040.D.
 - b. Nonresidential development that abuts a residential zone must be screened to the S-3 standard along all property lines, except street property lines.
 - c. Surface vehicle parking areas, loading areas, drive aisles, and stacking lanes for drive-through services within 20 feet of a street property line must be screened to the S-4 standard. Screening must be provided directly adjacent to the street property line, except where access is taken.
3. The minimum tree canopy standards for the site and any off-street vehicle parking areas are provided in Section 18.420.060.

C. Pedestrian access.

1. Paths must provide safe and convenient pedestrian access from public sidewalks and transit facilities abutting the site to all required building entrances on the site. A minimum of one path is required for every 200 linear feet of street frontage.
2. Paths must provide safe and convenient pedestrian access within the site between all buildings, uses, and areas designed for use by pedestrians, including parking areas. Paths within parking areas or along drive aisles are subject to additional standards in Chapter 18.410, Off-Street Parking and Loading.

3. Paths must extend to the perimeter property line to provide access to existing or planned active transportation facilities on adjacent properties, where practicable.
4. Paths must be constructed with a hard surface material and have a minimum unobstructed width of five feet.

D. Utilities and service areas.

1. Private utility facilities, such as transformers or control valves, that serve a single development must be located below ground unless the functional properties of the facility require above-ground placement. If located above ground, all facilities one cubic foot or greater in volume or with any one dimension greater than two feet must meet the following standards where not wall- or roof-mounted or located inside a building:
 - a. The facility may not be located within 20 feet of any street property line; and
 - b. The facility must be dark in color and painted or wrapped with a non-reflective material.
2. Service areas, such as waste and recycling containers, outdoor storage, and mechanical equipment, may not be located within 20 feet of any street property line, except where located inside a building.

E. Lighting.

1. Minimum illumination levels are measured horizontally at ground level.
 - a. The minimum average illumination is 1.5 footcandles for paths, except those within parking areas, which are subject to the lighting standards in Chapter 18.410, Off-Street Parking and Loading. All points of measurement must be a minimum of 0.5 footcandles.
 - b. The minimum average illumination is 3.5 footcandles for required building entrances and 2.0 footcandles for any non-required building entrances. All points of measurement must be a minimum of 1.0 footcandle.
2. Maximum illumination levels are measured vertically at the property line. The maximum illumination is 0.5 footcandles at side and rear property lines, except that the maximum illumination may be increased to 1.0 footcandle where the development abuts a commercial or industrial zone.
3. Lighting must be shielded, angled, or located such that it does not shine upwards or directly onto adjacent properties or sensitive lands.

F. Other standards. Development in commercial zones is subject to all other applicable standards of this title, including, but not limited to, standards related to parking and loading, streets and utilities, sensitive lands, and signs.

(Ord. 18-28 §1; Ord. 22-06 §2; Ord. 22-10 §2; Ord. 23-08, 12/5/2023)

§ 18.320.050. Design Standards.

A. Entrances.

1. A minimum of one entrance per building, or tenant space within a building without internal building access, must be visible and accessible from a public street. Additional entrances may face drive aisles, parking areas, or service areas.
 2. A required building entrance must be at an angle that is no more than 45 degrees from the street that it faces.
 3. A required building entrance must be covered, recessed, or treated with a permanent architectural feature that provides weather protection for pedestrians. The required weather protection must be at least as wide as the entrance, a maximum of six feet above the top of the entrance, and a minimum of three feet in depth. The required weather protection may project into the minimum front setback.
- B. Windows. Buildings or tenant spaces designed for first-story use by Eating and Drinking Establishments, Sales-Oriented Retail, Repair-Oriented Retail, Personal Services, and Office uses must include a minimum of 50% window area on all first-story street-facing facades.

(Ord. 18-28 §1; Ord. 20-01 §1)

§ 18.320.060. Additional Standards for C-N, C-C, and C-G Zones.

- A. C-N and C-C zones. The following standards apply to development in the C-C and C-N zones in addition to all other applicable standards of this title.
1. Pedestrian access.
 - a. Paths that provide access from public sidewalks to required building entrances must have a minimum unobstructed width of 8 feet.
 - b. Path surfaces must be visually distinguished from drive aisle surfaces where paths cross drive aisles through the use of durable and low-maintenance materials such as pavers, bricks, or scored concrete.
 2. Site design.
 - a. Minimum and maximum building setbacks are met when at least 70 percent of the street-facing building facade is located within the setback area.
 - b. Vehicle parking and loading areas must be located to the side or rear of primary buildings and not between primary buildings and the street property line.
 - c. Vehicle parking and loading areas must be designed and located to minimize conflicts between vehicular and non-vehicular traffic.
 - d. Loading areas must be designed and located to minimize adverse impacts on adjacent properties, particularly those in residential zones or with residential uses.
 - e. Landscaping must be designed and located to emphasize the major points of access into the site and to help define and separate vehicular and non-vehicular circulation within parking areas.
 - f. The following bicycle parking standards apply to the nonresidential component of a mixed-use or single-use development. Where a mixed-use development

includes a residential component, the bicycle parking standards in Subsection 18.230.040.F apply to the residential component of the development.

- i. A minimum of 50 percent of required bicycle parking spaces must be located within 20 feet of the street property line and be visible to pedestrians from the public sidewalk in front of the site;
 - ii. A minimum of 50 percent of required bicycle parking spaces must be covered where the site is located within 500 feet of an existing or planned trail; and
 - iii. Bicycle parking may be located in the public right-of-way with approval of the City Engineer.
- g. Where the site is located on a street corner, the corner area must include a unique site or building design feature such as an angled or rounded building corner, prominent building entrance, permanent seating area, water feature, sculpture, or distinctive paving or landscaping.
3. Building design.
 - a. All street-facing facades must provide a minimum of 50 percent of window area on all first-story facades and a minimum of 30 percent of window area on all upper-story facades, except that residential uses on upper stories must provide a minimum of 15 percent of window area.
 - b. All street-facing facades must include pedestrian-scale architectural design features such as awnings, window shadowing, accent siding, roof eaves, projecting cornices, horizontal belt courses, or enhanced entries that are appropriately scaled for the building size and location. Awnings may project into the public right-of-way with City Engineer approval provided they have a minimum vertical clearance of 8 feet from sidewalk grade and a minimum horizontal projection of 5 feet from building facade.
 - c. All building facades, other than street-facing facades, that are visible from public parking areas and adjacent properties must provide visual interest and avoid large blank walls through the use of windows, doors, color, landscaping, or wall treatments.
 - d. All accessory buildings, including structures required to screen utilities and service areas, and all site improvements, such as fences, walls, signs, and light fixtures, must use materials, colors, and architectural design features that are similar in scale and appearance to those on primary buildings. Chain link fencing and unfinished concrete blocks are prohibited.
- B. C-G zone within the Tigard Triangle. The following standards apply to development in the C-G zone within the Tigard Triangle. These standards apply in addition to all other applicable standards of this title and govern in the event of a conflict. See Chapter 18.660, Tigard Triangle Plan District, for additional transportation facility standards and Map 18.660.A for the location of the C-G zone within the Tigard Triangle.
 1. Buildings must occupy a minimum of 50 percent of all street frontages along

Highway 99W, Dartmouth Street, 72nd Avenue, 74th Avenue, and 68th Parkway. Buildings must be located at the corners of public street intersections where practicable.

2. All street-facing facades within the required setbacks must include windows on a minimum of 50 percent of the first-story facade area. First-story facade area is measured from 3 feet above grade to 9 feet above grade the entire length of each street-facing facade.
3. All street-facing facades that extend more than 50 feet must provide at least one of the following features:
 - a. A change in surface or siding material, color, or pattern;
 - b. A wall recession or projection that is a minimum of 6 feet in width and 2 feet in depth for the entire height of the facade;
 - c. A projecting cornice or eave; or
 - d. Other design features that reflect the building's structural system.
4. All street-facing facades that extend more than 300 feet must provide a pedestrian entry into the building or a breezeway between buildings.
5. The area between the building facade and the street property line must be landscaped or include hardscape materials that increase the width of the adjacent public sidewalk through the use of pavers, bricks, or scored concrete. This area may count toward meeting the base zone landscape area standard.
6. Surface vehicle parking and loading areas must be located to the side or rear of primary buildings and not between primary buildings and the street property line.

(Ord. 18-28 §1; Ord. 20-01 §1)

§ 18.320.070. Additional Standards for Adult Entertainment Uses.

- A. Adult Entertainment uses are prohibited within 500 feet of any:
 1. Residential zone,
 2. Public or private primary, elementary, junior, middle, or high school,
 3. Day care or hospital,
 4. Public library,
 5. Public park, or
 6. Religious institution.
- B. Hours of operation are limited to between 10 a.m. and 1 a.m.
- C. Windows less than 7 feet from the ground must be covered or screened such that sales areas and merchandise are not visible from public sidewalks.
- D. Doors and windows must be closed at all times except for normal ingress and egress.

E. Any sound transmitted by any means that is audible outside the structure containing the use
is prohibited.

(Ord. 18-28 §1)

CHAPTER 18.330 Industrial Zone Development Standards

§ 18.330.010. Purpose and Definition.

- A. Purpose. The purpose of this chapter is to provide standards for nonresidential development in industrial zones that promote quality development and enhance the livability, walkability, and safety of the community.
 - B. Definition. Nonresidential development includes mixed-use and single-use developments that contain a civic, institutional, commercial, industrial, or other nonresidential use.
- (Ord. 18-28 §1)

§ 18.330.020. Applicability.

- A. The standards of this chapter apply to nonresidential development in the I-P, I-L, and I-H zones.
 - B. Nonresidential development in the I-P zone within the Durham Advanced Wastewater Treatment Facility Plan District is subject to the standards of Chapter 18.630, Durham Advanced Wastewater Treatment Facility Plan District.
- (Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.330.030. Application Type.

Nonresidential development in industrial zones requires a site development review application, except where a conditional use or planned development application is required or proposed.

(Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.330.040. Development Standards.

- A. Base zone development standards are provided in Table 18.330.1.

Table 18.330.1 Industrial Zone Development Standards for Nonresidential Development			
Standard	I-P	I-L	I-H
Minimum Setbacks (ft)			
- <i>Front</i>	35	30	30
- <i>Street side</i>	20	20	20
- <i>Side</i> [1]	None	None	None
- <i>Rear</i> [1]	None	None	None
Maximum Height (ft)	45	45	45
Maximum Lot Coverage	75% [2]	85%	85%
Minimum Landscape Area	25% [2]	15%	15%

Notes:

[1]

Minimum side and rear setbacks are 0 feet, except the minimum side and rear setbacks are 50 feet where the site abuts a residential zone.

[2]

Maximum lot coverage may be increased to 80% and minimum landscape area may be reduced to 20% through a site development review or modification approval where the standards in Subsection 18.330.040.D are met.

B. Landscaping and screening. All required landscaping, including landscaping used to meet screening or tree canopy standards, is subject to the general provisions of Chapter 18.420, Landscaping and Screening.

1. The minimum landscape area standard is provided in Table 18.330.1. Landscaping standards are provided in Section 18.420.040. Any landscape area that meets the L-2 standard may count toward meeting the minimum area standard.
2. Screening standards are provided in Section 18.420.050. Screening is required as follows:
 - a. Service areas and wall- and roof-mounted utilities must be screened to the S-1 standard. Service areas and utilities are also subject to the standards in Subsection 18.330.040.C.
 - b. Nonresidential development that abuts a nonindustrial zone must be screened to the S-3 standard along all property lines, except street property lines.
 - c. Surface vehicle parking areas, loading areas, drive aisles, and stacking lanes for drive-through services within 20 feet of a street property line must be screened to the S-4 standard. Screening must be provided directly adjacent to the street property line, except where access is taken.
3. The minimum tree canopy standards for the site and any off-street vehicle parking areas are provided in Section 18.420.060.

C. Utilities and service areas.

1. Private utility facilities, such as transformers or control valves, that serve a single development must be located below ground unless the functional properties of the facility require above-ground placement. If located above ground, all facilities one cubic foot or greater in volume, or with any one dimension greater than two feet, must meet the following standards where not wall- or roof-mounted or located inside a building:
 - a. The facility may not be located within 20 feet of any street property line; and
 - b. The facility must be dark in color and painted or wrapped with a non-reflective material.

2. Service areas, such as waste and recycling containers, outdoor storage, and mechanical equipment, may not be located within 20 feet of any street property line, except where located inside a building.
- D. Lot coverage increase. The following standards apply to all nonresidential development in the I-P zone that propose to increase maximum lot coverage to 80% and reduce minimum landscape area to 20%:
1. Street trees must be a minimum caliper of three inches at planting;
 2. Landscape area between a parking lot and street property line must be a minimum depth of 10 feet; and
 3. The applicant must provide documentation of an adequate on-going maintenance program to ensure appropriate irrigation and maintenance of the landscape area.
- E. Pedestrian access.
1. Paths must provide safe and convenient pedestrian access from public sidewalks and transit facilities abutting the site to all required building entrances on the site. A minimum of one path is required for every 200 linear feet of street frontage.
 2. Paths must provide safe and convenient pedestrian access within the site between all buildings, uses, and areas designed for use by pedestrians, including parking areas. Paths within parking areas or along drive aisles are subject to additional standards in Subsection 18.410.040.B.
 3. Paths must extend to the perimeter property line to provide access to existing or planned active transportation facilities on adjacent properties, such as trails or public access easements, where practicable.
 4. Paths must be constructed with a hard surface material and have a minimum unobstructed width of five feet.
- F. Other standards. Development in commercial zones is subject to all other applicable standards of this title, including, but not limited to, standards related to parking and loading, streets and utilities, sensitive lands, and signs.

(Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2; Ord. 23-08, 12/5/2023)

CHAPTER 18.340
Parks and Recreation Zone Development Standards [Reserved]

**CHAPTER 18.350
Residential Zone Development Standards**

§ 18.350.010. Purpose and Definition.

- A. Purpose. The purpose of this chapter is to provide standards for nonresidential development in residential zones that promote quality development compatible with surrounding residential uses and to enhance the livability, walkability, and safety of the community.
- B. Definition. Nonresidential development includes mixed-use developments with or without a residential component and single-use developments that contain a civic, institutional, commercial, industrial, or other nonresidential use.

(Ord. 19-09 §1)

§ 18.350.020. Applicability.

- A. Applicability. The approval process and standards of this chapter apply to nonresidential development in residential zones.
- B. Exemptions. Development for the following uses is exempt from the standards of this chapter, except where it includes any building over 1,000 square feet in floor area:
 - 1. Basic Utilities,
 - 2. Major Event Entertainment,
 - 3. Non-accessory Parking,
 - 4. Cemeteries, and
 - 5. Transportation/Utility Corridors.

(Ord. 19-09 §1)

§ 18.350.030. Application Type.

Nonresidential development in residential zones requires a site development review application, except where a conditional use or planned development application is required or proposed.

(Ord. 19-09 §1)

§ 18.350.040. Development Standards.

- A. Setbacks.
 - 1. The minimum setback from any street property line is 15 feet.
 - 2. The minimum setback from side and rear property lines is 20 feet.
- B. Height. The maximum height is 45 feet.
- C. Lot coverage. The maximum lot coverage is 85%.
- D. Landscaping and screening. All required landscaping, including landscaping used to meet screening or tree canopy standards, is subject to the general provisions of Chapter 18.420, Landscaping and Screening.

1. A minimum of 15% of the site must be landscaped. Landscaping standards are provided in Section 18.420.040. Any landscape area that meets the L-2 standard may count toward meeting the minimum area standard.
2. Screening standards are provided in Section 18.420.050. Screening is required as follows:
 - a. Service areas and wall- and roof-mounted utilities must be screened to the S-1 standard. Service areas and utilities are also subject to the standards in Subsection 18.350.040.F.
 - b. Surface vehicle parking areas, loading areas, and drive aisles within 25 feet of a street property line must be screened to the S-4 standard. Screening must be provided directly adjacent to the area to be screened, except where access is taken.
3. The minimum tree canopy standards for the site and any off-street vehicle parking areas are provided in Section 18.420.060.

E. Pedestrian access.

1. Paths must provide safe and convenient pedestrian access from public sidewalks abutting the site to all required building entrances on the site. A minimum of one path is required for every 200 linear feet of street frontage, except where the use is not intended to receive the public on a regular basis. Paths must be constructed with a hard surface material and have a minimum unobstructed width of eight feet to meet this standard.
2. Paths must provide safe and convenient pedestrian access within the site between all buildings, uses, and areas designed for use by pedestrians. Paths within parking areas or along drive aisles are subject to additional standards in Chapter 18.410, Off-Street Parking and Loading. Paths must be constructed with a hard surface material and have a minimum unobstructed width of five feet to meet this standard.
3. Paths must extend to the perimeter property line to provide access to existing or planned pedestrian facilities on adjacent properties, such as trails or public access easements, where practicable. Paths must be constructed with a hard surface material and have a minimum unobstructed width of eight feet to meet this standard.

F. Utilities and service areas. All utilities and service areas must comply with the standards of Subsection 18.320.040.D.

G. Lighting. Lighting must be provided in compliance with the standards of Subsection 18.320.040.E.

H. Parking. In addition to the standards of Chapter 18.410, Off-Street Parking and Loading, the following standards apply:

1. Vehicle parking and loading areas may not be located closer to a street property line than a required entrance facing that street property line;
2. Vehicle parking and loading areas must be designed and located to minimize conflicts between vehicular and non-vehicular traffic;

3. Loading and service areas must be designed and located to minimize adverse impacts on adjacent properties;
4. A minimum of 50% of required bicycle parking spaces must be located within 25 feet of the street property line and be visible to pedestrians from the public sidewalk in front of the site; and
5. A minimum of 50% of required bicycle parking spaces must be covered.

I. Fences and walls.

1. The standards of Section 18.210.020 apply to all fences and walls, and
2. Chain link fencing and unfinished concrete blocks with any one dimension equal to or greater than 15 inches are prohibited within 25 feet of any street property line.

J. Other Standards. Nonresidential development is subject to all other applicable requirements of this title, including, but not limited to, standards related to streets and utilities, sensitive lands, and signs.

(Ord. 19-09 §1; Ord. 22-10 §2)

§ 18.350.050. Design Standards.

- A. Entrances. Entrances must be provided in compliance with the standards of Subsection 18.320.050.A, and must be located within 25 feet of a street property line.
- B. Windows. All street-facing facades must provide a minimum of 25% of window area.
- C. Facade design. All street-facing facades must include at least three architectural features from the list below on the entirety of the facade. Different features may be used on different facades of the same building.
 1. Facade articulation. A wall projection or recession that is a minimum of six feet in width and two feet in depth for a minimum of half the height of the facade and with a maximum distance of 40 feet between projections or recessions.
 2. Roof eave or projecting cornice.
 - a. An eave that projects a minimum of 12 inches from the building facade; or
 - b. A cornice that projects a minimum of six inches from the building facade and is a minimum of 12 inches in height.
 3. Roof offsets. A roof offset that is a minimum of 2 feet from the top surface of one roof to the top surface of another roof as measured horizontally or vertically with a maximum distance of 40 feet between offsets.
 4. Accent siding. A minimum of 2 different siding materials are used, and one siding material covers a minimum of 40 percent of the building facade.
 5. Distinct base and top. The first story is visually distinguished from the upper stories by including a belt course and at least one of the following:
 - a. A change in surface or siding pattern;

- b. A change in surface or siding material; or
 - c. A change in the size or orientation of windows.
6. Window shadowing. All windows include at least one of the following:
 - a. Window trim that is a minimum of 2.5 inches in width and 0.625 inches in depth; or
 - b. Windows that are recessed a minimum of 3 inches from the building facade.
 7. Enhanced entrances or awnings.
 - a. All entrances other than emergency egress are covered with a permanent architectural feature that provides weather protection and is at least as wide as the entry, a maximum of 6 feet above the top of the entry, and a minimum of 5 feet in depth; or
 - b. A permanent architectural feature is provided above all first-story windows, such as an awning or series of awnings, that are at least as wide as each window, a maximum of 6 feet above the top of each window, and a minimum of 3 feet in depth.

D. Materials.

1. The following materials are prohibited as exterior finish materials:
 - a. Vinyl PVC siding,
 - b. T-111 plywood,
 - c. Exterior insulation finishing (EIFS),
 - d. Corrugated metal,
 - e. Plain concrete or concrete block,
 - f. Spandrel glass, or
 - g. Sheet pressboard.
2. Foundation material may be plain concrete or plain concrete block where the foundation material is not revealed for more than 2 feet above grade at any point.

(Ord. 19-09 §1; Ord. 20-01 §1)

**Part 18.400
SUPPLEMENTAL DEVELOPMENT STANDARDS**

**CHAPTER 18.410
Off-Street Parking and Loading**

§ 18.410.010. Purpose.

The purpose of this chapter is to provide standards to ensure the following goals are met:

- A. Off-street vehicle parking and maneuvering areas are:
 1. Limited in scale;
 2. Designed to minimize conflicts with active transportation modes; and
 3. Designed to mitigate heat island effects or generate sustainable power.
- B. Parking structures are:
 1. Designed with pedestrian-friendly ground floor façades; and
 2. Designed to minimize conflicts with active transportation modes at ingress and egress points.
- C. Off-street bicycle parking are:
 1. Sufficiently sized to meet the current and future needs of bicyclists; and
 2. Located and designed to discourage theft and optimize user safety, comfort, and convenience.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-10 §2; Ord. 23-08, 12/5/2023)

§ 18.410.020. Applicability.

- A. Applicability. The provisions of this chapter apply to all new development and all modifications to existing development, including changes of use, unless stated otherwise in this title.
- B. Unlisted uses. Where a use is not listed in Table 18.410.3, a use determination may be requested as provided in Section 18.60.030 for the purposes of determining the maximum vehicle parking and minimum bicycle parking standards of this chapter.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-10 §2; Ord. 23-08, 12/5/2023)

§ 18.410.030. Vehicle Parking and Loading Standards.

- A. Quantity.
 1. The ratios for the maximum number of off-street vehicle parking spaces allowed are provided in Table 18.410.3, subject to the following:
 - a. If application of the maximum parking standard results in less than six parking spaces for a development with less than 1,000 square feet of floor area, the development is allowed up to six parking spaces.

- b. If application of the maximum parking standard results in less than 10 vehicle parking spaces for a development between 1,000 and 2,000 square feet, the development is allowed up to 10 vehicle parking spaces.
 - c. If a development is approved with no specified use, the development must apply the maximum parking standard for the use category that would allow the fewest number of parking spaces, chosen from all the uses that could be contained within the building type(s).
 - d. In mixed-use and multi-tenant developments, the maximum allowable vehicle parking is determined individually for each use.
 - e. The following types of parking areas are not included when calculating the maximum number of vehicle parking spaces allowed:
 - (i) Parking spaces contained in a parking structure;
 - (ii) Market-rate paid parking spaces;
 - (iii) Designated carpool or vanpool spaces;
 - (iv) Designated accessible parking spaces;
 - (v) Fleet vehicle storage; and
 - (vi) Vehicle storage spaces for sale, lease, or rent.
- B. Vehicular access. Vehicular access to off-street vehicle parking or loading areas must meet the requirements of Chapter 18.920, Access, Egress, and Circulation and Chapter 18.930, Vision Clearance Areas.
- C. Pedestrian access. Paths that cross access driveways or that provide access to vehicle or bicycle parking areas must comply with the following:
1. Paths must be physically separated from vehicle parking and maneuvering areas by either a minimum six-inch vertical separation (curbed) or a minimum 3-foot horizontal separation, except that pedestrian crossings of traffic aisles are allowed for distances no greater than 36 feet if appropriate landscaping, pavement markings, or contrasting pavement materials are used;
 2. Paths must be a minimum of four feet in width, exclusive of vehicle overhangs and obstructions such as mailboxes, benches, bicycle racks, and sign posts; and
 3. Paths must be in compliance with applicable federal and state accessibility standards.
- D. Drive-through facilities.
1. All uses with drive-through facilities must provide on-site stacking lanes for inbound vehicles as provided in Table 18.410.1.

**Table 18.410.1
Stacking Lane Requirements**

Use	Stacking Lane Requirement
Banks	150 feet/service terminal
Automated teller machines	50 feet/automated teller machine
Cleaners, repair services	50 feet
Restaurants	200 feet
Drive-in theaters	200 feet
Fueling stations	75 feet between curb cut and nearest fueling kiosk
Car washes	75 feet/washing unit
Parking facilities:	
- With automatic ticket dispensing	50 feet/entry driveway
- With staffed ticket dispensing	100 feet/entry driveway
- With valet or attendant parking	100 feet

- 2. Stacking lanes must be designed so that they do not interfere with off-street parking areas or with vehicle, pedestrian, and bicycle circulation.
- E. Surfacing. Off-street parking areas must be paved with an asphalt, concrete, or pervious paving surface, except for the following:
 - 1. Off-street parking areas associated with a temporary use application, as provided in Chapter 18.440, Temporary Uses, provided the approval authority determines that unpaved parking will not create adverse conditions.
 - 2. Off-street overflow parking areas in the Parks and Recreation zone.
- F. Striping.
 - 1. All off-street parking spaces must be clearly and separately identified with pavement markings or contrasting paving materials, except for spaces provided with the following types of development:
 - a. Small form residential;
 - b. Detached accessory dwelling units; or
 - c. Any other residential development where spaces are not grouped.
 - 2. All interior vehicle drives and access aisles must be clearly marked and signed to show direction of flow.
- G. Wheel stops. Parking bumpers or wheel stops a minimum of four inches in height must be provided a minimum of three feet from the front of vehicle parking spaces wherever vehicles can encroach on a right-of-way or pedestrian path. Curbing may substitute for wheel stops if vehicles will not encroach into the minimum required width for landscape or

pedestrian paths.

H. Lighting. Lighting must be provided that meets the following standards:

1. All pedestrian paths in parking areas and providing access to parking areas must be illuminated to a minimum level of 0.5 footcandles at all points, measured horizontally at the ground level.
 2. Lighting luminaires must have a cutoff angle of 90 degrees or greater to ensure that lighting is directed toward the parking surface.
 3. Lighting may not cause a light trespass of more than 0.5 footcandles measured vertically at the boundaries of the site.
- I. Space and aisle dimensions. The minimum dimensional standards for surface parking spaces and drive aisles are provided in Figure 18.410.1 and Table 18.410.2.

Figure 18.410.1 Parking Dimension Factors

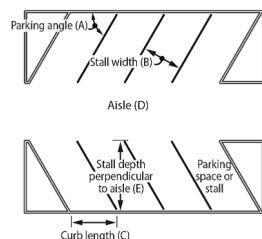


Table 18.410.2
Minimum Parking Space and Aisle Dimensions

Angle (A)	Stall Width (B)	Curb Length (C)	1 Way Aisle Width (D)	2 Way Aisle Width (D)	Stall Depth (E)
0° (Parallel)	8 ft.	22 ft. 6 in.	12 ft.	20 ft.	8 ft.
30°	8 ft. 6 in.	17 ft.	12 ft.	20 ft.	15 ft.
45°	8 ft. 6 in.	12 ft.	12 ft.	20 ft.	17 ft.
60°	8 ft. 6 in.	9 ft. 9 in.	16 ft.	20 ft.	17 ft. 6 in.
90°	8 ft. 6 in.	8 ft. 6 in.	20 ft.	20 ft.	16 ft.

- J. Accessible parking. Where off-street vehicle parking is provided, it must include the required number of accessible vehicle parking spaces as specified by the state building code and federal standards. Such parking spaces must be sized, signed, and marked as required by these regulations and in compliance with ORS 447.

K. Loading areas. All off-street vehicle loading areas for passengers or goods must:

1. Include sufficient area for turning and maneuvering of vehicles on site. At a minimum, the maneuvering length must be at least twice the overall length of the longest vehicle using the site.
2. Be designed such that vehicle stacking does not impact any public right-of-way.

- L. Electrical service capacity. Electrical service capacity, as defined by ORS 455.417, must be provided to new off-street parking spaces in compliance with the standards of this subsection. Adjustments to the standards of this subsection are prohibited.
1. Non-residential development and residential or mixed-use developments with less than five dwelling units must provide electrical service capacity to a minimum of 20% of all off-street vehicle parking spaces on the site.
 2. Residential or mixed-use developments with five or more dwelling units must provide electrical service capacity to a minimum of 40% of all off-street vehicle parking spaces on the site.
 3. Small form residential or rowhouse development is exempt from the provisions of this subsection.
- M. Tree canopy. Tree canopy must be provided over parking areas in compliance with the standards of this subsection. Tree canopy values are credited at 75% of their listed canopy area in the Tigard Urban Forestry Manual (UFM) tree list or at 75% of the area calculated using the method described in Section 13 of the UFM.
1. Developments with off-street parking areas less than 20,000 square feet in size, as measured using the method provided in Section 18.40.150, must provide a minimum effective tree canopy coverage of 30% over all parking areas.
 2. Developments with off-street parking areas of 20,000 square feet or more, as measured using the method provided in Section 18.40.150, must meet one of the following:
 - a. The development provides a minimum effective tree canopy coverage of 40% over all parking areas.
 - b. The development provides a minimum effective tree canopy coverage of 30% over all parking areas in addition to solar panels with a generation capacity of at least one-half kilowatt per parking space on the same site.
 - c. The development provides solar panels with a generation capacity of at least one-half kilowatt per parking space above the parking area. In this case, no minimum tree canopy requirement applies.
 - d. The development provides a minimum effective tree canopy coverage of 30% over all parking areas and the applicant has paid the parking climate fee, as provided in the Tigard Fees and Charges Schedule.
 3. Parking areas for small form residential, cottage clusters, courtyard units, quads, and rowhouses are exempt from the standards of this subsection, but must meet any tree canopy standards provided in the applicable development standards chapter in Chapter 18.200, Residential Development Standards.
- N. Employee parking. Developments or uses that provide 50 or more designated employee parking spaces must provide preferential parking spaces for carpool or vanpool vehicles. Parking spaces are considered designated for employee parking when they are restricted to the exclusive use of employees through signage, access control, or other means.

O. Maximum coverage. For developments with 65,000 square feet or more of floor area on a site, the total area of surface parking must not exceed the total square footage of floor area on that site.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2; Ord. 22-10 §2; Ord. 23-08, 12/5/2023)

§ 18.410.040. Parking Structure Standards.

- A. First-story windows and wall openings. All street-facing facades of parking structures must include windows, doors, or display areas on a minimum of 20% of the first-story facade area excluding those portions of the facade devoted to vehicular access, stairwells, elevators, and centralized payment booths. Required windows must have a sill no more than four feet above grade. Where the interior floor level prohibits such placement, the sill may be raised to allow it to be no more than two feet above finished floor wall up to a maximum sill height of six feet above grade.
- B. Exit warning bell. All exits from parking structures within 15 feet of public sidewalks or pedestrian paths must include an audible and visible signal that alerts non-motorized traffic when vehicles are exiting.
- C. Parking layout and internal circulation. The required space and aisle dimensions within a parking structure are provided in Figure 18.410.1 and Table 18.410.2.
- D. Electrical service capacity. The electrical service capacity requirements of Section 18.410.030.L apply to new parking structures.

(Ord. 22-10 §2; Ord. 23-08, 12/5/2023)

§ 18.410.050. Bicycle Parking Standards.

- A. Quantity. The minimum number of required bicycle parking spaces is provided in Table 18.410.3. If application of the minimum bicycle parking standard results in less than two spaces, then the development must provide at least two spaces. Small form residential, accessory dwelling units, cottage clusters, courtyard units, quads, and rowhouses are exempt from minimum bicycle parking standards.
- B. Location. Required bicycle parking must be located within 50 feet of a required or main entrance of a primary building, except that required bicycle parking for mixed-use or nonresidential development that includes any vehicle parking within a parking structure must be covered and located within 100 feet of a required or main entrance of a primary building.
- C. Design.
 - 1. Bicycle racks must be designed to allow a bicycle frame to lock to it at two points of contact, except that spiral racks and wave racks with more than one loop are prohibited;
 - 2. Bicycle racks must be securely anchored to the ground, wall, or other structure;
 - 3. Bicycle parking spaces must be at least two and one-half feet in width and six feet in length and have an access aisle between each row of spaces that is at least five feet in width. Covered bicycle parking must provide a vertical clearance of seven feet; and

4. Bicycle parking spaces must be paved with a dust-free hard surface material.
- D. Lighting. Lighting must be provided that meets the following standards:
1. All bicycle parking areas and paths providing access to these areas must be illuminated to a minimum level of 0.5 footcandles at all points, measured horizontally at the ground level.
 2. Lighting luminaires must have a cutoff angle of 90 degrees or greater to ensure that lighting is directed toward the parking surface.
 3. Lighting may not cause a light trespass of more than one-half footcandles measured vertically at the boundaries of the site.
- (Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.410.060. Vehicle and Bicycle Parking Quantity Standards.

Table 18.410.3
Vehicle and Bicycle Parking Quantity Standards

Use Category	Vehicle Maximum	Bicycle Minimum
Residential Use Category		
Residential Use	See applicable housing type development standards chapter in 18.200. The residential component of a mixed-use development must use the parking requirements for apartments.	
Civic/Institutional Use Categories		
Basic Utilities	None	None
Colleges	1.0/3.3 students/staff	1.0/3.0 students/staff
Community Services	2.5/1,000	0.3/1,000
Cultural Institutions	3.5/1,000	1.0/1,000
Day Care	Home: None Commercial: 2.7/1,000	Home: None Commercial: 1.5/classroom
Emergency Services	3.5/1,000	0.5/1,000
Medical Centers	2.7/1,000	0.2/1,000
Postal Services	3.0/1,000	0.3/1,000
Religious Institutions	1.0/1.7 seats in main assembly area	1.0/20 seats in main assembly area
Schools	Preschool: 7.0 +1.0/classroom Elementary/JR: 2.5/classroom SR: 1.0/3.3 students/staff	Preschool: 1.0/classroom Elementary/JR: 6.0/classroom SR: 6.0/classroom

Table 18.410.3
Vehicle and Bicycle Parking Quantity Standards

Use Category	Vehicle Maximum	Bicycle Minimum
Social/Fraternal Clubs/Lodges	12.0/1,000 main assembly area	12.0/1,000 main assembly area
Temporary Shelter	None	1.0/5 beds
Commercial Use Categories		
Adult Entertainment	3.5/1,000 1.0/1.25 seats	0.5/1,000 1.0/20 seats
Animal-Related Commercial	4.0/1,000	0.3/1,000
Bulk Sales	1.3/1,000	0.3/1,000
Commercial Lodging	1.2/room	1.0/10 rooms
Custom Arts and Crafts	5.0/1,000	0.3/1,000
Eating and Drinking Establishments [1]	Fast food: 12.4/1,000 Other: 19.1/1,000	All: 1.0/1,000
Indoor Entertainment	5.4/1,000 Theater: 1.0/2.5 seats	0.5/1,000 Theater: 1.0/10 seats
Major Event Entertainment	1.0/2.5 seats or 1.0/5 ft of bench	1.0/10 seats or 40 ft of bench
Motor Vehicle Sales/Rental	1.3/1,000 but no less than 4	0.2/1,000 sales area
Motor Vehicle Servicing/Repair	2.3/1,000 but no less than 4	0.2/1,000
Non-Accessory Parking	None	None
Office	Non-medical: 3.4/1,000 Medical: 4.9/1,000	Non-medical: 0.5/1,000 Medical: 0.4/1,000
Outdoor Entertainment	4.5/1,000	0.4/1,000
Outdoor Sales	1.3/1,000 sales area	0.1/1,000 sales area
Personal Services	3.0/1,000 Bank with drive-through: 5.0/1,000	All: 1.0/1,000
Repair-Oriented Retail	4.0/1,000	0.3/1,000
Sales-Oriented Retail	5.0/1,000	0.3/1,000
Self-Service Storage	1.0/4 storage units	1.0/40 storage units
Vehicle Fuel Sales	4.0 + 2.0/service bay	0.2/1,000
Industrial Use Categories		
General Industrial	None	0.1/1,000

Table 18.410.3
Vehicle and Bicycle Parking Quantity Standards

Use Category	Vehicle Maximum	Bicycle Minimum
Heavy Industrial	None	0.1/1,000
Industrial Services	1.2/1,000	0.1/1,000
Light Industrial	None	0.1/1,000
Railroad Yards	None	None
Research and Development	3.0/1,000	0.5/1,000
Warehouse/Freight Movement	<150,000 sq ft: 0.8/1,000 >150,000 sq ft: 0.4/1,000	All: 0.1/1,000
Waste-Related	7.0	None
Wholesale Sales	1.2/1,000	0.1/1,000
Other Use Categories		
Agriculture/Horticulture	None	None
Cemeteries	None	None
Detention Facilities	None	1.0/2.5 beds
Heliports	None	None
Mining	None	None
Transportation/Utility Corridors	None	None
Wireless Communication Facilities	None	None

Note:

[1] Fast food designation includes all eating and drinking establishments with a "walk-up counter" or less than 10 tables in the dining area.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2; Ord. 22-09 §2; Ord. 22-10 §2; Ord. 23-08, 12/5/2023)

CHAPTER 18.420 **Landscaping and Screening**

§ 18.420.010. Purpose.

This chapter establishes minimum standards for landscaping, screening, and tree canopy.

A. The purposes of landscaping standards are to:

1. Enhance the aesthetic and economic value of development and the community as a whole;
2. Unify new development with existing neighborhoods and establish a more pleasant community character; and
3. Reduce stormwater runoff by providing permeable surfaces.

B. The purposes of screening standards are to:

1. Soften and screen large-scale structures, parking lots, and other unsightly features from view, especially from the street frontage to create a more pleasant pedestrian experience; and
2. Reduce visual impacts and provide privacy between residential and nonresidential uses.

C. The purposes of tree canopy standards are to:

1. Maximize the aesthetic, environmental, and economic benefits that trees provide by preserving, managing, and enhancing existing trees and requiring planting of new trees; and
2. Implement the comprehensive plan goals and policies related to urban forestry.

(Ord. 18-28 §1)

§ 18.420.020. Applicability.

- A. Landscaping standards. Landscaping standards apply to new and existing development that must provide a minimum amount of landscape area as required by the applicable development standards chapter.
- B. Screening standards. Screening standards apply to new and existing development with uses or site improvements that must be screened from other uses or the street as required by the applicable development standards chapter.
- C. Tree canopy standards. Site and parking lot tree canopy standards apply to the following types of new and existing development, except that parking lot tree canopy standards do not apply to subdivisions or partitions:
1. Subdivisions and partitions;
 2. Apartments;
 3. Nonresidential development, including mixed-use developments;

4. Wireless communication facilities; and

5. Mobile home parks.

(Ord. 18-28 §1)

§ 18.420.030. General Provisions.

- A. All required trees must meet the city's Urban Forestry Manual (UFM) standards as follows:
 - 1. Street trees must meet the street tree planting and maintenance standards in UFM Section 2 and street tree soil volume standards in UFM Section 12;
 - 2. Parking lot trees must meet the parking lot tree canopy standards in UFM Section 13; and
 - 3. All other trees must meet the tree canopy site plan requirements in UFM Section 10, Part 2.
- B. Trees proposed to be preserved must be protected in a manner that meets the tree protection standards in UFM Section 10, Part 3.
- C. Plants that are less than 18 inches in height at maturity, except lawn, are considered groundcover. Minimum container size at planting is either 4 inches or 1 gallon, and maximum plant spacing is either 1 foot or 2 feet on center, respectively.
- D. Plants that are more than 18 inches in height but less than six feet in height at maturity are considered small or medium shrubs. Minimum container size at planting is 1 gallon, and maximum plant spacing is 3 feet on center.
- E. Plants, excluding trees, that are more than six feet in height at maturity are considered large shrubs. Minimum container size at planting is 2 gallons, and maximum plant spacing is 7 feet on center.
- F. Plants listed as invasive or noxious on the Portland Plant List are prohibited. Trees listed on the UFM Nuisance Tree List are prohibited.
- G. All landscaping required by this chapter, including landscaping used to meet screening or tree canopy standards, must be maintained to applicable industry standards in perpetuity as provided in the most current version of the American National Standards Institute A300 Standards for Tree Care Operations.
- H. All trees required by this chapter are subject to the city's urban forestry requirements regarding planting, maintenance, and removal of trees as provided in Title 8 of the Tigard Municipal Code.

(Ord. 18-28 §1)

§ 18.420.040. Landscaping Standards.

- A. Landscaping standards are provided in Table 18.420.1.
- B. Landscaping or other areas used to meet the minimum landscape area standard must be provided on the development site and may be met by any combination of the following:
 - 1. Landscaping, including parking lot landscaping, that meets the L-1 or L-2

- landscaping standard;
2. Landscaping that meets the S-2, S-3, or S-4 screening standard as provided in Table 18.420.2 where required by the applicable development standards chapter;
 3. Any required above-ground vegetated stormwater facility; or
 4. Other areas as specified by the applicable development standards chapter.
- C. Landscaping in excess of the minimum landscape area standard does not have to meet the L-1 or L-2 landscaping standard.

**Table 18.420.1
Landscaping Standards**

Standard	Requirements
L-1	Any combination of trees, plants, or lawn with or without other natural or artificial landscaping elements such as ponds, fountains, lighting, benches, bridges, rocks, paths, sculptures, trellises, or screens.
L-2	<ul style="list-style-type: none"> • A minimum of 50% of the total required landscape area must include small, medium, or large shrubs; • A maximum of 50% of the total required landscape area may include any combination of mulch, groundcover, lawn, or hardscape, except that hardscape areas may not cover more than 25% of the total required landscape area; and • If tree canopy standards do not apply as provided in Subsection 18.420.020.C, then 1 tree must be provided for every 600 square feet of total required landscape area.

(Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.420.050. Screening Standards.

- A. Screening standards are provided in Table 18.420.2 and illustrated in Figures 18.420.1 and 2. These standards must be met as required by the applicable development standards chapter in 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards.
- B. The following items are exempt from the screening standards of this chapter:
 1. Roof-mounted solar panels,
 2. Above-ground vegetated stormwater facilities,
 3. Utility poles, and
 4. Accessory structures allowed by Paragraphs 18.210.030.A.2 and 18.310.030.A.2.

C. The following additional requirements apply to the S-1 screening standard:

1. Screening is required on all sides, except where access is taken. If access is provided by an opening without a gate or door, the opening must be oriented so that it is not visible from a public sidewalk;
2. Screening must be of an appropriate height and width so that the item to be screened is not visible from a public sidewalk.
3. Chain link fencing with slats and unfinished concrete blocks are prohibited where visible from a public sidewalk.

Table 18.420.2
Screening Standards

Standard	Minimum Depth	Requirements
S-1	N/A	<ul style="list-style-type: none"> • Service areas: • Sight-obscuring fence or wall <p>Roof-mounted equipment or utilities:</p> <ul style="list-style-type: none"> • Parapet wall or sight-obscuring structure <p>Wall-mounted equipment or utilities:</p> <ul style="list-style-type: none"> • Architecturally incorporated into building or sight-obscuring fence, wall, or structure
S-2	5 feet	Groundcover and small or medium evergreen shrubs.
S-3	5 feet	<ul style="list-style-type: none"> • Sight-obscuring fence or wall a minimum of 6 feet in height; and • Approved trees from UFM Appendix 2 – 5 spaced appropriately based on tree stature.

**Table 18.420.2
Screening Standards**

Standard	Minimum Depth	Requirements
S-4	8 feet	<ul style="list-style-type: none"> • Sight-obscuring fence, wall, or berm that is a minimum of 3 feet in height or evergreen hedge that will be a minimum of 3 feet in height at time of maturity; • Approved trees from UFM Appendix 2 – 5 spaced appropriately based on tree stature; and • If a hedge is provided, then groundcover evenly distributed along the entire length of the screen; or • If a hedge is not provided, then small and medium shrubs and groundcover evenly distributed along the entire length of the screen.

Figure 18.420.1 S-3 Screening Standard

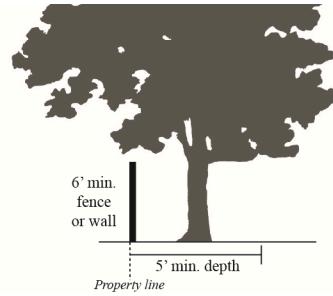
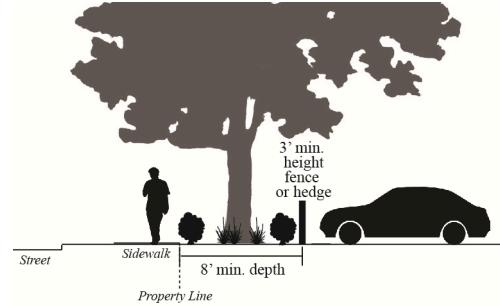


Figure 18.420.2 S-4 Screening Standard



(Ord. 18-28 §1)

§ 18.420.060. Tree Canopy Standards.

- A. Site tree canopy standards, which are stated as a percentage of effective tree canopy cover for an entire site, are provided in UFM Section 10, Part 3, Subparts N and O. Parking lot tree canopy standards are provided below.
- B. An urban forestry plan is required to demonstrate compliance with site and parking lot tree canopy standards and must meet the requirements of UFM Sections 10 through 13. An urban forestry plan must:
 1. Be coordinated and approved by a project landscape architect or project arborist, i.e. a person that is both a certified arborist and tree risk assessor, except that land partitions may demonstrate compliance with effective tree canopy cover and soil volume requirements by planting street trees in open soil volumes only;
 2. Demonstrate compliance with UFM tree preservation and removal site plan standards;
 3. Demonstrate compliance with UFM tree canopy and supplemental report standards and provide the minimum effective tree canopy cover;
 4. Demonstrate compliance with parking lot tree canopy standards of Section 18.410.030.M; and
 5. Include street trees where right-of-way improvements are required by Chapter 18.910, Improvement Standards.
 - a. The minimum number of required street trees is determined by dividing the length in feet of the site's street frontage by 40 feet. When the result is a fraction, the minimum number of street trees is the nearest whole number. More than the minimum number of street trees may be required along the site's frontage depending upon the stature of trees chosen and the specific spacing standards for the chosen trees.
 - b. Street trees must be planted within the right-of-way wherever practicable. Street trees may be planted a maximum of six feet from the right-of-way when planting within the right-of-way is not practicable as determined by the City Engineer.
 - c. An existing tree may be used to meet the street tree standards provided that:
 - i. The largest percentage of the tree trunk immediately above the trunk flare or root buttresses is either within the subject site or within the right-of-way immediately adjacent to the subject site; and
 - ii. The tree would be permitted as a street tree in compliance with UFM street tree planting and soil volume standards if it were newly planted.
- C. Fee in lieu of planting.
 1. The applicant may choose to provide a fee-in-lieu when the tree canopy requirement is not met in compliance with UFM Section 10, Part 4.
 2. If it is not practicable to provide the minimum number of required street trees then the applicant must pay a fee to the city for tree planting and early establishment in an amount equivalent to the city's cost to plant and maintain a street tree for three years

for each tree below the minimum required.

3. Tree canopy fees provided to the city will be deposited into the urban forestry fund and used as approved by City Council through a resolution.
- D. Urban forestry plan discretionary review. In lieu of providing payment of a tree canopy fee when less than the standard effective tree canopy cover will be provided, an applicant may apply for a discretionary urban forestry plan review. The discretionary urban forestry plan review cannot be used to modify an already approved urban forestry plan, any tree preservation or tree planting requirements established as part of another land use approval, or any tree preservation or tree planting requirements required by another chapter in this title.
 1. Approval process. Discretionary urban forestry plan reviews will be processed through a Type III procedure, as provided in Section 18.710.080, using approval criteria in Paragraph 18.420.060.D.2. When a discretionary urban forestry plan review is submitted for concurrent review with a land use application that requires a Type III review, the approval authority will be the one designated for the land use application. If the discretionary urban forestry plan review is not concurrent with a land use application that requires a Type III review, then the approval authority will be the Hearings Officer.
 2. Approval criteria. A discretionary urban forestry plan review application will be approved when the approval authority finds that the applicable approval criteria are met. The applicant must demonstrate that the proposed plan will equally or better replace the environmental functions and values that would otherwise be provided through payment of a tree canopy fee in lieu of tree planting or preservation. Preference will be given to projects that will receive certifications by third parties for various combinations of proposed alternatives such as:
 - a. Techniques that minimize hydrological impacts beyond regulatory requirements such as those detailed in Clean Water Services Low Impact Development Approaches (LIDA) Handbook, including, but not limited to, porous pavement, green roofs, infiltration planters/rain gardens, flow through planters, LIDA swales, vegetated filter strips, vegetated swales, extended dry basins, and constructed water quality wetlands;
 - b. Techniques that minimize reliance on fossil fuels and production of greenhouse gases beyond regulatory requirements through the use of energy efficient building technologies and on-site energy production technologies; and
 - c. Techniques that preserve and enhance wildlife habitat beyond regulatory requirements, including, but not limited to, the use of native plant species in landscape design, removal of invasive plant species, and restoration of native habitat and preservation of habitat through the use of conservation easements or other protective instruments.
 3. Decision. The discretionary urban forestry plan review decision will be incorporated into the decision of the land use application. The discretionary urban forestry plan approved in this section will supersede and replace any conflicting requirements in this chapter; however, all of the non-conflicting requirements in this chapter continue to apply.

E. Urban forestry plan implementation.

1. Implementation of the urban forestry plan must be inspected, documented, and reported by the project arborist or landscape architect in compliance with the inspection requirements in UFM Section 11, Part 1, wherever an urban forestry plan is in effect. In addition, no person may refuse entry or access to the Director for the purpose.
2. The establishment of all trees shown to be planted in the tree canopy site plan and supplemental report of a previously approved urban forestry plan must be guaranteed and required in compliance with the tree establishment requirements in UFM Section 11, Part 2.
3. Spatial and species-specific data must be collected in compliance with the urban forestry inventory requirements in UFM Section 11, Part 3 for each open grown tree and area of stand grown trees in the tree canopy site plan and supplemental report of a previously approved urban forestry plan.
4. An urban forestry plan will be in effect from the point of land use approval until the Director determines all applicable urban forestry plan conditions of approval and code requirements have been met.

F. Urban forestry plan modification. Except as exempted in Paragraph 18.420.060.F.1, an application to modify the urban forestry plan component of a land use approval is processed through a Type I procedure, as provided in Section 18.710.050, using the approval criteria in Paragraph 18.420.060.F.2.

1. Exemptions. The following are exempt from a Type I modification application to the urban forestry plan component of a land use approval:
 - a. Removal of any tree shown as preserved in the tree canopy site plan and supplemental report of a previously approved urban forestry plan provided that:
 - i. The project arborist or landscape architect provides a written report prior to removal attesting that either the condition rating or suitability of preservation rating, as provided in the city's Urban Forestry Manual, of the tree has changed to a rating of less than 2; and
 - ii. A revised tree canopy site plan and supplemental report are submitted for review and approval prior to removal that reflect the proposed changes to the previously approved urban forestry plan. The revised tree canopy site plan and supplemental report must demonstrate how the effective tree canopy cover requirements will be provided by tree planting, preservation, or payment of a tree canopy fee in lieu of planting or preservation.
 - b. Modification of the quantity, location, or species of trees to be planted in the tree canopy site plan and supplemental report of a previously approved urban forestry plan provided that:
 - i. The modification results in the same or greater amount of future tree canopy through tree planting as the previously approved urban forestry plan for the lot or tract where the modification is proposed;

- ii. Payment of a tree canopy fee in lieu of planting is not proposed as part of the modification; and
 - iii. A revised tree canopy site plan and supplemental report are submitted for review and approval prior to planting that reflect the proposed changes to the previously approved urban forestry plan.
- c. Modification of the tree protection fencing location in the tree preservation and removal site plan, tree canopy site plan, and supplemental report of a previously approved urban forestry plan provided that:
 - i. The project arborist or landscape architect provides a written report prior to modification of the tree protection fencing describing how the proposed modification will continue to protect the viability of the trees shown as preserved in the previously approved urban forestry plan; and
 - ii. A revised tree preservation and removal site plan, tree canopy site plan, and supplemental report are submitted for review and approval prior to modification of the tree protection fencing that reflect the proposed modifications to the previously approved urban forestry plan.
2. Approval criteria. The approval authority will approve or approve with conditions the modification to the urban forestry plan component of a land use approval when all of the following are met:
 - a. The project arborist or landscape architect has provided a report and statement certifying that the previously approved urban forestry plan did not account for the circumstances that led to the proposed modification;
 - b. The project arborist or landscape architect has provided a report and statement certifying that there is no practicable alternative to the proposed modification; and
 - c. The project arborist or landscape architect demonstrates compliance with Subsection 18.420.060.B through a modified urban forestry plan.

(Ord. 18-28 §1; Ord. 22-06 §2; Ord. 23-08, 12/5/2023)

CHAPTER 18.430 **Marijuana Facilities**

§ 18.430.010. Purpose.

The purpose of this chapter is to apply specific development standards to marijuana facilities in order to:

- A. Protect the general health, safety, property, and welfare of the public;
- B. Balance the right of individuals to produce and access marijuana and marijuana derivatives consistent with state law, with the need to minimize adverse impacts to nearby properties that may result from the production, storage, distribution, sale, or use of marijuana and derivatives;
- C. Prevent or reduce criminal activity that may result in harm to persons or property;
- D. Prevent or reduce diversion of state-licensed marijuana and marijuana derivatives to minors; and
- E. Minimize impacts to the city's public safety services by reducing calls for service.
(Ord. 17-22 §2)

§ 18.430.020. Applicability.

- A. Relationship to other standards. The regulations within this chapter are in addition to the applicable development standards chapter in 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards. Sites within overlay zones, plan districts, inventoried hazards, or sensitive lands are subject to additional regulations. Specific uses or development types may also be subject to regulations as provided elsewhere in this title.
- B. When provisions apply. The provisions of this chapter apply to all marijuana facilities requiring a state license or registration and public places of assembly where marijuana is consumed.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.430.030. Approval Process and Documentation.

- A. Approval process. Marijuana facility applications are processed through a Type I procedure, as provided in Section 18.710.050.
- B. Documentation. The following provisions apply at the time of minimum compliance review or a request for enforcement:
 1. When processing a minimum compliance review, the city may accept an evaluation and explanation certified by a registered engineer or architect, as appropriate, that the proposed development will meet the off-site odor impact standard. The evaluation and explanation must provide a description of the use or activity, equipment, processes, and the mechanisms, or equipment used to avoid or mitigate off-site impacts.
 2. If the city does not have the equipment or expertise to measure and evaluate a specific complaint regarding off-site impacts, it may request assistance from another agency or may contract with an independent expert to perform the necessary measurements.

The city may accept measurements made by an independent expert hired by the controller or operator of the off-site impact source.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.430.040. Approval Criteria.

The approval authority will approve or approve with conditions a marijuana facility application when all of the standards in Section 18.430.050 are met.

(Ord. 19-09 §1)

§ 18.430.050. Development Standards.

- A. The proposed development must comply with all applicable state requirements and requirements of this title.
- B. The proposed development must meet all of the following site location restrictions. All distances are measured at the closest property lines between the proposed site and nearest lot containing the specified use or characteristic.
 1. Marijuana facilities are prohibited within the MU-CBD and TMU zones.
 2. Marijuana facilities are prohibited within 1,000 feet of a public or private elementary school, secondary school, or career school attended primarily by minors.
 3. Sale-Oriented Retail and Wholesale Sales uses open to the public are subject to the following restrictions:
 - a. The use must be located on a lot with frontage along Pacific Highway (Oregon Route 99W), and with primary entrances clearly visible from the Pacific Highway right-of-way;
 - b. Marijuana facilities are prohibited within 1,000 feet of another state-licensed retail or wholesale marijuana facility within or outside of city limits; and
 - c. Marijuana facilities are prohibited within 500 feet of a public library or the Parks and Recreation zone.
 4. Non-retail uses and Wholesale Sales uses not open to the public are prohibited within 500 feet of one or more of the following zones or facilities:
 - a. Residential zone;
 - b. Parks and Recreation zone; or
 - c. Public library.
- C. Hours of commercial operation are limited to the hours between 7:00 am and 10:00 pm. General Industrial uses with no on-site retail activity are exempt from this restriction.
- D. The proposed development must be located inside a building and may not be located within a trailer, shipping container, cargo container, tent, or motor vehicle. Outdoor storage of merchandise, plants, or other materials is prohibited.
- E. Parking lots, primary entrances, and exterior walkways must be illuminated with

downward facing security lighting to provide after-dark visibility to employees and patrons. Fixtures must be located so that light patterns overlap at a height of 7 feet with a minimum illumination level of 1.0 footcandles at the darkest spot on the ground surface.

- F. Drive-through marijuana facilities are prohibited.
- G. The proposed development must confine all marijuana odors and other objectionable odors to levels undetectable at the property line.
- H. Marijuana or marijuana products must not be visible from the exterior of the building or structure.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1)

CHAPTER 18.435 Signs

§ 18.435.010. Purpose.

- A. Purpose. The purpose of this chapter is:
1. To protect the health, safety, property, and welfare of the public;
 2. To promote the neat, clean, orderly, and attractive appearance of the community;
 3. To accommodate the need of sign users while avoiding nuisances to nearby properties;
 4. To ensure for safe construction, location, erection, and maintenance of signs;
 5. To prevent proliferation of signs and sign clutter;
 6. To minimize distractions for motorists on public highways and streets;
 7. To regulate solely on the basis of time, place, and manner of a sign, not on its content; and
 8. To regulate the design, quality of materials, construction, location, electrification, illumination, and maintenance of all signs visible from public property or from public rights-of-way.
- B. Compliance with other laws and regulations. It is not the purpose of this chapter to permit the erection or maintenance of any sign at any place or in any manner unlawful under any other ordinance, or state or federal law.
- (Ord. 17-22 §2; Ord. 17-25 §3)

§ 18.435.012. Effective Date of this Chapter.

All references made in this chapter to the effective date of this chapter mean November 9, 1983, unless otherwise specifically stated in an ordinance revision.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.435.015. Definitions.

- A. Definitions. These definitions are specific to this chapter and are in addition to Chapter 18.30, Definitions.

"A-frame sign" - See "Temporary sign."

"Abandoned sign" - A structure not containing a message or image for 90 continuous days or a sign not in use for 90 continuous days.

"Area" - See Section 18.435.085 for definition of sign area.

"Awning sign" - A sign incorporated into or attached to an awning.

"Balloon" - See "Temporary sign."

"Banner" - See "Temporary sign."

"Bench sign" - A bench designed to seat people with a sign painted or affixed on the

surface.

"Billboard" - A sign of at least 500 square feet on which space is leased or rented.

"Building face" - All street-facing wall areas in one or more parallel planes, including windows and building projections.

"Cultural institution auxiliary sign" - A sign placed and maintained by, or on behalf of, a subordinate commercial use in a cultural institution.

"Cutout" - Letters, figures, characters, or representations in cutout or irregular form attached to or superimposed upon a sign.

"Directional sign" - A permanent sign designed and erected solely for the purpose of traffic or pedestrian direction.

"Display surface" - The area made available by the sign structure for the purpose of displaying the message or image.

"Electronic information sign" - A sign with lighted changeable copy or message that changes at set intervals, each lasting more than two seconds, by electronic process or remote control. This type of sign is also known as an automatic changeable copy sign or electronic variable message center. An electronic information sign is not a reader-board sign or a rotating, revolving or moving sign.

"Entryway sign" - A sign placed by or on behalf of the city at an entry to the city.

"Flag" - A sign made of nonrigid material with no rigid internal or enclosing framework, attached to a pole along a single straight side of the sign such that the sign remains unattached along the remaining sides and can move in the wind. Flags are not considered rotating, revolving, or moving signs for the purposes of this chapter.

"Flashing sign" - Any sign that is illuminated by an intermittent or sequential flashing light source with an interval cycle that is two seconds or less in duration or is animated in any way so as to create the illusion of movement without actual physical movement or the illusion of a flashing or intermittent light or light source.

"Flush pitched roof sign" - A type of wall sign attached to a mansard or similar type of vertically aligned roof.

"Freestanding sign" - A sign erected and mounted on a freestanding frame, mast, or pole and not attached to any building.

"Freeway interchange" - Any intersection of an exit off-ramp of Interstate Highway 5 or State Highway 217 with a city street.

"Freeway-oriented sign" - A sign primarily designed to be read by a motorist traveling on a highway designated by the Oregon State Highway Department as a freeway or expressway. Interstate 5 and Oregon State Highway 217 are freeways, and Highway 99W is not a freeway.

"Immediate or serious danger" -

- a. Whenever any portion of the structure is damaged by fire, earthquake, wind, flood or other cause, and any member or appurtenance is likely to fail, become detached or dislodged, or to collapse and thereby injure persons or damage property;
- b. Whenever any portion of the structure is not of sufficient strength or stability or is

not so anchored, attached, or fastened in place as to be capable of resisting a wind pressure of 0.5 of that specified in the state building code for this type structure or similar structure, and will not exceed the working stresses allowed in the state building code for such structures; or

- c. Whenever the location of the sign structure obstructs the view of motorists traveling on the public streets or private property, and thus causes damage to property or thereby injures persons.

"Industrial park" - A development in an industrial zone that includes two or more industrial or commercial uses on a campus.

"Lawn sign" - See "Temporary sign."

"Lighting methods" -

- a. Direct lighting is where the light source is plainly visible on the sign face and not concealed within or separate from the sign. Examples include neon tube lighting and light-emitting diodes on an electronic information sign;
- b. Indirect or external lighting is where the light source is separate from the sign face or cabinet and is designed to shine on the sign; and
- c. Internal lighting is where the light source is concealed within the sign face or cabinet and is designed to illuminate the sign from within.

"Maintenance" - Normal care needed to keep a sign functional such as cleaning, oiling, changing and repair of light bulbs and sign faces. Does not include structural alteration.

"Nonconforming sign" - A sign or sign structure lawfully erected and properly maintained that would not be allowed under the sign regulations presently applicable to the site.

"Non-structural trim" - The moldings, battens, caps, nailing strips, latticing, letters, and walkways that are attached to a sign structure.

"Painted wall decorations" - Displays painted directly on a wall, designed and intended as a decorative or ornamental feature. Decorations may also include lighting.

"Painted wall highlights" - Painted areas that highlight a building's architectural or structural features.

"Painted wall sign" - A sign applied to a building wall with paint that has no sign structure.

"Premises" - One or more lots on which buildings or site improvements may exist that are designed as a unit.

"Projecting sign" - A sign, or any portion of a sign, attached to a building that is not parallel to the building face or that projects more than 18 inches from the wall plane of the building face. A projecting sign may be attached to a wall or a building projection, such as a marquee, balcony, or awning; however, the amount of the projection is measured from the wall plane in all cases and not the building projection to which the sign may be attached. A projecting sign may not extend above the building face to which it is attached, except where there is an existing parapet.

"Reader-board sign" - A sign with changeable copy or message that is changed manually, not electronically. A reader-board sign is not an electronic information sign.

"Roof line" - The top edge of a roof or building parapet, whichever is higher, excluding any

cupolas, chimneys, or other minor projections.

"Roof sign" - A sign erected fully upon or directly above a roof line or parapet of a building or structure.

"Rotating, revolving, or moving sign" - Any sign or portion of a sign that moves in any manner including, but not limited to, movement caused by wind, machines, or persons.

"Shopping center" - A development of not less than eight business units.

"Shopping plaza" - A development of between two and seven business units.

"Sign" - Materials placed or constructed primarily to convey a message with symbols, logos, letters, or other displays that can be viewed from the public right-of-way, another property, or the air.

"Sign projection" - The distance by which a sign extends from a building.

"Sign structure" - Any structure that supports or is capable of supporting any sign as described in the state building code. A sign structure may be a single pole and may or may not be an integral part of a building. Sign structures are not buildings.

"Structural alteration" - Modification of the size, shape, or height of a sign structure. Also includes replacement of sign structure materials with other than comparable materials, for example metal parts replacing wood parts.

"Temporary sign" - Any sign that is not permanently erected or affixed to the ground or any structure or building:

- a. A balloon sign is an inflatable, stationary sign anchored by some means to a structure or the ground. Examples include simple children's balloons, hot and cold air balloons, blimps and other dirigibles;
- b. A banner is a sign made of fabric or other nonrigid material with no enclosing framework;
- c. A lawn sign is a rigid sign supported by one or more sticks, posts, or rods inserted into the ground or a weighted base; or
- d. An A-frame sign is a freestanding sign with two possible sign faces supported by a rigid frame in the shape of an "A."

"Wall sign" - A sign attached to or painted on the wall plane of a building face with the exposed face of the sign in a plane parallel to the building face and that projects 18 inches or less from the wall plane of the building face.

"Window sign" - A sign placed on the inside of a window. A sign placed on the outside of a window is considered a wall sign.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 19-09 §1)

§ 18.435.020. Permits.

- A. Compliance required. All signs or sign structures erected, re-erected, constructed, structurally altered, or relocated within the city limits must comply with the standards and provisions of this chapter.
- B. Sign permits.

1. All permanent signs require a sign permit, except those that are exempted by Section 18.435.060. All temporary signs require a temporary sign permit as provided by Section 18.435.100, except those that are exempted by Section 18.435.060. A-frame signs allowed by Paragraph 18.435.130.G.6 are treated as permanent signs for permitting purposes.
 2. Each sign or group of signs on a single supporting structure, including sign alterations not exempted by Section 18.435.060, require a separate sign permit.
- C. Retroactive sign permits. The Director may require an application for sign permits for all signage at a given address if no existing permits previously had been approved or documented.
- D. Encroachment permits. In addition to any required sign permits, Chapter 15.16 of the Tigard Municipal Code requires an encroachment permit for any sign allowed in the public right-of-way by this chapter.
- (Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.435.030. Approval Process.

Approval process. Sign permit applications are processed through a Type I procedure, as provided in Section 18.710.050. The approval authority will approve or approve with conditions a sign application when the applicable standards of this chapter and the sign standards of any applicable plan district are met.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 19-09 §1)

§ 18.435.040. Approval Period.

- A. Approval period. Sign permit approvals are effective for a period of 90 days from the date of approval.
- B. Expiration. A sign permit approval expires if:
1. Substantial construction of the approved sign has not begun within the 90-day period; or
 2. Construction on the site is a departure from the approved permit.
- C. Extension of approval. The approval authority will, upon written request by the applicant, grant an extension of the approval period not to exceed 90 days provided that:
1. No changes are proposed to the original approved sign permit;
 2. The applicant can show intent of initiating construction of the sign within the 90-day extension period; and
 3. There have been no changes in the applicable policies and ordinance provisions and state building code provisions on which the approval was based.
- (Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2)

§ 18.435.050. Inspections.

The Director is authorized to enforce all of the provisions of this chapter. All signs for which

permits are required may be inspected by the Director; upon presentation of proper credentials, the Director may enter at reasonable times any building, structure, or premises in the city to perform any duty imposed upon the position by this chapter.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2)

§ 18.435.060. Permit Exempt Signs.

A. Exemptions from permit requirements. The following signs and operations do not require a sign permit but must comply with all other applicable regulations of this chapter and Subsection 18.435.060.B:

1. Lawn and A-frame signs in residential zones, with the following restrictions:
 - a. Multiple lawn and A-frame signs are allowed per premises and must be spaced at least 50 feet apart.
 - b. The total maximum sign area for lawn signs in the RES-A, RES-B, and RES-C zones is 12 square feet per sign face and 24 square feet for all sign faces per premises. The total maximum sign area for lawn signs in all other residential zones is 24 square feet for all sign faces per premises.
 - c. The total maximum sign area for A-frame signs in all residential zones is six square feet per sign face and 12 square feet for all sign faces. A-frame signs may be displayed only between the hours of 8 a.m. and 6 p.m.
 - d. Lawn and A-frame signs in residential zones are allowed only on private property and not within the public right-of-way or the clear vision area as provided in Chapter 18.930, Vision Clearance Areas.
2. Signs not oriented or intended to be legible from a right-of-way, other property, or the air;
3. Signs inside a building, except for flashing signs visible from a right-of-way, other property, or the air;
4. Painted wall decorations;
5. Painted wall highlights;
6. Window signs;
7. Directional signs on private property or directional signs in the public right-of-way that are legally erected by or on behalf of a government agency or road authority;
8. Flags in nonresidential zones up to a maximum area of 40 square feet per flag, and 120 square feet per site, displayed from permanent freestanding or wall-mounted flagpoles that are designed to allow the flags to be raised and lowered;
9. Flags in residential zones with a maximum area of 15 square feet per site, displayed from temporary freestanding or wall-mounted flagpoles;
10. Sign repair, maintenance, or change of copy or message that does not involve a change of sign size, height, type, or location;

11. Signs affected by stipulated judgments to which the city is a party that is entered by courts of competent jurisdiction; and
 12. Banner signs in the right-of-way in the MU-CBD zone, with the following restrictions:
 - a. The maximum sign area is 140 square feet per sign face, and
 - b. The maximum length of display is 60 continuous days.
- B. Requirements for exempted signs. All signs exempted from sign permits in Subsection 18.435.060.A must be placed on private property, and only with the consent of the property owner, except where expressly allowed on utility poles or in the public right-of-way.
- C. Legally required signs. Nothing in this title prevents the erection, location, or construction of signs on private property where such erection, location, or construction is required by any law or ordinance. Nor is any public agency or utility prohibited from erecting signs on private property when otherwise authorized. No sign permit or fee is required for such signs.
- (Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.435.070. Prohibited Signs.

- A. Unsafe or improperly maintained signs. All signs must be constructed, erected, and maintained to withstand the wind, seismic, or other applicable requirements in the state building code or this title.
- B. Unauthorized traffic signs. The following signs are prohibited:
 1. Signs that interfere with, obstruct the view of, or could be confused with any authorized traffic sign, signal, or device by reason of position, shape, or color; and
 2. Signs that make use of the word "stop," "look," "danger," or any other similar word, phrase, symbol, or character that is likely to interfere with, mislead, or confuse motorists.
- C. Obscene signs. Signs containing statements, words, or pictures in which the dominant theme of the material, taken as a whole, appeals to the prurient interest in sex or is patently offensive because it affronts the contemporary community standard relating to the description or representation of sexual material are prohibited.
- D. Obstructing signs.
 1. Signs or sign structures may not be constructed or located in a manner that obstructs access to any fire escape or other means of ingress or egress from a building or any exit corridor, hallway, or doorway. Signs or sign structures may not cover, wholly or partially, any window or doorway in any manner that substantially limits access to the building in case of fire or other emergency; and
 2. Signs or sign structures at any street intersection must comply with Chapter 18.930, Vision Clearance Areas.
- E. Roof signs. Roof signs are prohibited, except for temporary balloon signs allowed by Section 18.435.100, flush-pitched roof signs allowed by Subsection 18.435.090.F, and

pedestrian-oriented roof signs allowed by Paragraph 18.435.130.G.5.

- F. Revolving, rotating, or moving signs. Revolving, rotating, or moving signs are prohibited, except for temporary banners or balloons allowed by Section 18.435.100.
- G. Flashing signs. Flashing signs of any kind are prohibited, including, but not limited to, strobe lights.
- H. Right-of-way signs. Signs in the public right-of-way in whole or in part are prohibited, except for signs legally erected for informational purposes by or on behalf of a government agency, bench signs allowed by Subsection 18.435.090.B, awning signs allowed by Subsection 18.435.090.E, temporary banners allowed by Paragraph 18.435.060.A.12, or signs allowed by Subparagraph 18.435.130.G.1.c in the TMU and MU-CBD zones. Any sign that projects into or is located in City of Tigard right-of-way is subject to approval by the City Engineer. Signs may not project into or be located in Oregon Department of Transportation right-of-way.

- I. Billboards. Billboards are prohibited.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.435.080. Sign Illumination.

- A. Surface brightness. The surface brightness of any sign is limited to that produced by the diffused output obtained from 800 milliamperc fluorescent light sources spaced not closer than 8 inches, center on center.
- B. No exposed incandescent lamps. Exposed lamps that exceed the equivalent of a 25 watt incandescent lamp are prohibited on the exterior surface of any sign in a manner that exposes the face of such bulb or lamp to any public street or public right-of-way, with the exception of allowed electronic information signs.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.435.085. Sign Measurement.

- A. Projecting and freestanding signs.
 - 1. The area of a freestanding or projecting sign includes all sign faces counted in calculating its area. Regardless of the number of sign cabinets or sign faces, the total allowable area must not be exceeded.
 - 2. The area of a projecting or freestanding sign is measured as follows:
 - a. The area around and enclosing the perimeter of each sign cabinet, face, or module is summed and then totaled to determine total area. The perimeter of measurable area does not include embellishments such as pole covers, framing and decorative roofing, provided there is no written advertising copy, symbols, or logos on such embellishments;
 - b. If the sign is composed of more than two sign cabinets, faces, or modules, the area enclosing the entire perimeter of all cabinets, faces, or modules within a single, continuous geometric figure is the area of the sign. Pole covers and other embellishments are not included in the area of the sign measurement if they do not bear written advertising copy, symbols, or logos; and

- c. The overall height of a freestanding sign or sign structure is measured from the grade directly below the sign to the highest point of the sign or sign structure and includes architectural and structural embellishments.
- B. Wall signs and flush-pitched roof signs.
1. The area of a wall sign is measured as follows:
 - a. The area around and enclosing the perimeter of each sign cabinet, face, or module is summed and then totaled to determine total area. The perimeter of measurable area does not include embellishments such as pole covers, framing, and decorative roofing, provided there is no written advertising copy, symbols, or logos on such embellishments;
 - b. If the sign is composed of individual letters or symbols using the wall as the background with or without added decoration, the total sign area is calculated by measuring the area within the perimeter of all symbols and letters or other decoration including logos; and
 - c. Measurement of the wall area pertaining to flush pitched roof signs is calculated as if the sign were mounted directly on the wall face immediately below the sign.

C. Awning signs.

1. If an awning sign meets the definition of a wall sign as provided in Subsection 18.435.015.A, it is measured as a wall sign as described in Subsection 18.435.085.B as if the sign were mounted directly on the building face.
2. If an awning sign meets the definition of a projecting sign as provided in Subsection 18.435.015.A, it is measured as a projecting sign as described in Subsection 18.435.085.A.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2)

§ 18.435.090. Special Condition Signs.

- A. Applicability. Special condition signs have special or unique dimensional, locational, illumination, maximum number, or other requirements imposed upon them in addition to the regulations contained in this chapter.
- B. Bench signs.
1. Bench signs are allowed only at designated transit stops in commercial, industrial, RES-D and RES-E zones where no bus shelter exists, subject to the following:
 - a. No more than one bench sign is allowed per transit stop;
 - b. Placement of the bench sign must not interfere with pedestrian traffic or be located within a vision clearance area or a public right-of-way except where approved by the City Engineer;
 - c. Application for a bench sign must include the signature of the property owner, proof of liability insurance, and any required permits from the state highway division or Washington County, where applicable; and

d. The sign area is limited to a total of 14 square feet.

C. Electronic information signs.

1. Electronic information signs are allowed only in the C-G, MUC, TMU, and MU-CBD zones, and at schools that front an arterial street provided the sign is a minimum of 200 feet from an abutting residential use and is oriented to the arterial street.
2. The standards for electronic information signs in TMU and MU-CBD zones are provided in Subparagraph 18.435.130.G.1.a.
3. The standards for electronic information signs in all other zones and for schools are provided below.
 - a. The maximum height and area of an electronic information sign are provided in Section 18.435.130 and any other applicable standards of this title;
 - b. Electronic information signs are not allowed to substitute for a nonconforming sign or be mounted upon a nonconforming sign or sign structure, unless the sign and sign structure are brought into compliance with all of the provisions of this title;
 - c. An electronic information sign may be allowed to substitute for one freestanding sign or one wall sign except in the MUC zone where an electronic information sign may only be substituted for one freestanding sign and no other sign type. An electronic information sign is not allowed to substitute for any other sign type, and is not allowed to replace or supplement a billboard, freeway-oriented sign, or any other sign type other than those specifically allowed above;
 - d. One electronic information sign is allowed per premises; and
 - e. With regard to light patterns:
 - i. Traveling light patterns ("chaser effect") are prohibited, and
 - ii. Messages and animation must be displayed at intervals of greater than two seconds in duration.

D. Freestanding freeway-oriented signs.

1. For signs requiring a permit under the Oregon Motorist Information Act, the city will provide the applicant the affidavits required under the provisions of ORS 377.723 only after a local sign permit has been approved.
2. Freeway-oriented signs are allowed only in the C-G, TMU, I-P, I-L and I-H zones.
3. Freeway-oriented signs must be located within 200 feet of Highway 217 or Interstate 5 rights-of-way.
4. A maximum of one freeway-oriented sign is allowed per premises.
5. The maximum height of a freeway-oriented sign is 35 feet from the ground level at its base.
6. The maximum area of a freeway-oriented sign is 160 square feet per face and a total

of 320 square feet for all faces.

7. Freeway-oriented signs must be oriented to be viewed from the freeway.
8. In addition to a freeway-oriented sign, each lot, development complex, or premises is allowed one freestanding sign provided all other provisions of this chapter can be met and both signs are located on separate frontages with different orientations.
9. Freeway-oriented signs are only allowed as freestanding signs and are not allowed as any other sign type.

E. Awning signs.

1. Awning signs are allowed in all base zones. Regardless of how an awning sign is measured, as provided in Subsection 18.435.085.C, the total awning sign area counts toward the total wall sign area allowance as provided in the applicable base zone sign regulations in Section 18.435.130, except for awning signs in the TMU and MU-CBD zones. The total awning sign area in these zones counts toward the total projecting sign area allowance as provided in Paragraph 18.435.130.G.4.
2. The standards for awning signs in TMU and MU-CBD zones are provided in Paragraph 18.435.130.G.4.
3. The standards for awning signs in all other zones are provided below.
 - a. The copy on awning signs may extend above the upper surfaces of the awning structure, provided it does not extend above the roof of the associated building. They may be hung below the awning if the sign clears the sidewalk by at least 8.5 feet;
 - b. Awning signs may be internally or externally illuminated; and
 - c. If approved by the City Engineer through an encroachment permit, awning signs may extend into the public right-of-way 6.5 feet or 2/3 of the distance to the roadway, whichever is less. However, a sign may not extend within two feet of the nearest vehicle travel lane.

F. Flush pitched roof signs.

1. Flush pitched roof signs are allowed in all base zones except residential zones;
2. Flush pitched roof signs may not extend more than six inches above the roof line;
3. Flush pitched roof signs must be parallel to the building face and may not extend beyond the sides of the building face;
4. Flush pitched roof signs must be attached to a mansard or other near vertical roof where the roof angle is greater than 45 degrees from horizontal; and
5. Flush pitched roof signs are a type of wall sign, and all code provisions applicable to wall signs apply to this type of sign.

G. Painted wall signs. Wall signs, including symbols or logos, which are painted directly onto the wall surface may not exceed in gross wall area the percentage allowed for a wall sign in the applicable base zone.

- H. Entryway signs. Entryway signs are allowed in all base zones.
- I. Cultural institution auxiliary signs.
 - 1. Cultural institution auxiliary signs are allowed in all base zones.
 - 2. Cultural institution auxiliary signs are limited to one sign and must be either within the same sign structure as another freestanding sign on the property where the cultural institution is located or on a wall of the primary building of the cultural institution. A wall sign must be consistent in structure and materials with any existing wall sign on the cultural institution. The sign area of a cultural institution auxiliary sign is limited to four square feet per face.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.435.100. Temporary Signs.

- A. Applicability. All temporary signs listed in Paragraph 18.435.015.A.44 require a temporary sign permit except for the following:
 - 1. Lawn and A-frame signs in residential zones exempted by Paragraph 18.435.060.A.1.
 - 2. A-frame signs in MU-CBD and TMU zones allowed by Paragraph 18.435.130.G.6.
 - 3. Banner signs in the right-of-way in the MU-CBD zone exempted by Paragraph 18.435.060.A.11.
- B. Expiration of approvals.
 - 1. A temporary sign permit is issued for a period of 30 days or less. The approval authority may attach conditions to the permit as necessary to ensure discontinuance of the use of the sign; and
 - 2. A temporary sign permit may be reissued by the approval authority for two additional periods of 30 days each per calendar year, except for balloon sign permits which may not be reissued.
- C. Standards. Standards for all temporary signs, except balloon signs, that require a temporary sign permit by Subsection 18.435.100.A above are as follows:
 - 1. A maximum of one temporary sign is allowed at a time for each owner or occupant of property or building;
 - 2. The maximum total area of a temporary sign is 24 square feet for all faces and 12 square feet per face, except for banners, which have a maximum total area of 24 square feet per sign face;
 - 3. Temporary signs must be located on private property;
 - 4. Temporary signs may not be located in the public right-of-way or the clear vision area as described in Chapter 18.930, Vision Clearance Areas;
 - 5. Temporary signs may not be illuminated in any way or utilize electrical wiring;
 - 6. Temporary signs may not contain a reader-board or electronic information sign component; and

7. Temporary signs may not be permanently attached to the ground, buildings, or other structures.
- D. Standards for balloon signs that require a temporary sign permit by Subsection 18.435.100.A are as follows:
1. A maximum of one stationary balloon or cluster of children's balloons is allowed per calendar year for each owner or occupant of property or building;
 2. A balloon sign may remain in place for a maximum of 10 days per calendar year;
 3. A balloon sign may be allowed as a roof sign;
 4. A balloon sign may not exceed 25 feet in height or float in the air higher than 25 feet above the nearest building's roof line; and
 5. A balloon sign must be secured to a structure or the ground.
- (Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.435.110. Nonconforming Signs.

- A. Applicability. For the purposes of this chapter, non-conforming signs are defined as follows:
1. Except as provided in this chapter, signs in existence on March 20, 1978, in compliance with Ordinance Nos. 77-89 and 78-16, which do not conform to the provisions of this chapter, but that were constructed, erected, or maintained in compliance with all previous regulations, are considered nonconforming signs that may be continued until March 20, 1988.
 2. Signs in existence on January 11, 1971 that do not conform to the provisions of this chapter, but were constructed, erected, or maintained in compliance with all previous regulations, were regarded as nonconforming signs and could be continued for a period of 10 years from January 11, 1971. All such signs that were not brought into compliance with the standards in Ordinance Nos. 77-89 and 78-16 and the extensions granted, are now in violation of this chapter.
 3. Signs located on premises annexed into the city after January 11, 1971 that do not comply with the provisions of this chapter, must be brought into compliance with this chapter within a period of 10 years after the effective date of the annexation.
 4. Any sign that is structurally altered, relocated, or replaced must immediately be brought into compliance with all of the provisions of this chapter, except the repairing and restoration of a sign on site or away from the site to a safe condition. Any part of a sign or sign structure for normal maintenance is allowed without loss of nonconforming status.
- B. Restrictions. For purposes of this chapter, a sign face or message change is subject to the following provisions:
1. A sign face or message change on a nonconforming sign is prohibited when the affected property and sign structure have been abandoned for greater than 90 days;
 2. A sign face or message change is allowed as an alteration only for existing

conforming signs and for nonconforming signs prior to their amortization expiration date; and

3. No sign permit is required for allowable sign face or message changes.
- C. Reconstruction. Should a nonconforming sign or sign structure or nonconforming portion of structure be destroyed or repaired by any means to an extent of more than 50 percent of its replacement cost, reconstruction is prohibited except in conformity with the provisions of this chapter.
- D. Requirements for conformance. Signs in existence on the effective date of this chapter that do not comply with provisions regulating flashing signs; use of par spotlights or rotating beacons; rotating and revolving signs; flags, banners, streamers, or strings of lights; or temporary or incidental signs; must conform within 90 days from the effective date of this chapter.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.435.120. Removal of Nonconforming or Abandoned Signs.

- A. Conformance required. All signs erected after the effective date of this title that are in violation of any provisions of this chapter must be removed or brought into conformance upon written notice by the Director.
- B. Removal. All signs that do not comply with this chapter but were erected prior to the effective date of this chapter, must be removed or brought into conformance within 60 days from written notice by certified mail given by the Director.
- C. Enforcement. If the owner of a sign, building, structure, or premises fails to comply with the written order, the Director may then cite the owner into court subject to Chapter 18.20, Administration and Enforcement. The following exceptions apply:
 1. Section 18.435.110 provides for certain time limits and other conditions for certain signs as described therein.
 2. Any sign that by its condition or location presents an immediate or serious danger to the public, by order of the building official, must be removed or repaired within the time the building official specifies. In the event the owner of such sign cannot be found or refuses to comply with the order to remove, the building official will then have the dangerous sign removed and the owner cited for noncompliance and recovery of any damage or expense.
- D. Responsible party for removal. Any person who owns or leases a nonconforming or abandoned sign or sign structure must remove such sign and sign structure when the expiration of the amortization period for the sign as provided in Section 18.435.110 has occurred or the sign has been abandoned:
 1. If the person who owns or leases such sign fails to remove it as provided in this section, the Director will give the owner of the building, structure, or premises upon which such sign is located, 60 days' written notice to remove it;
 2. If the sign has not been removed at the expiration of the 60 days' written notice, the Director may remove such sign at cost to the owner of the building, structure, or premises;

3. Signs that are in full compliance with sign regulations, which the successor to a person's business agrees to maintain as provided in this chapter, need not be removed in compliance with this section; and
4. Costs incurred by the city due to removal, may be made a lien against the land or premises on which such sign is located, after notice and hearing, and may be collected or foreclosed in the same manner as liens otherwise entered in the liens docket of the city.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2)

§ 18.435.130. Base Zone Regulations.

- A. Residential zones. Signs other than the following are prohibited in residential zones:
 1. Wall signs are allowed, up to a combined total maximum area of 4 square feet, or 1 square foot per dwelling unit, whichever is larger;
 2. Every housing complex is allowed one permanent freestanding sign at each entry point to the housing complex from the public right-of-way, with the site properly landscaped, up to a maximum of 32 square feet per face in area. Illumination may be approved provided it does not create a public or private nuisance, as determined by the Director considering the purpose of the zone;
 3. Every platted subdivision is allowed one permanent, freestanding sign at each entry point to the subdivision from the public right-of-way, with the site properly landscaped, up to a maximum of 32 square feet per face in area. Illumination may be approved provided it does not create a public or private nuisance, as determined by the Director considering the purpose of the zone;
 4. For nonresidential uses, one illuminated or non-illuminated freestanding sign is allowed, up to a maximum of 6 feet in height and 32 square feet in area per sign face. Wall signs must not exceed 5 percent of the gross area of the wall face on which the sign is mounted;
 5. Directional signs on private property designed solely to identify driveway entrances and exits for motorists on adjoining public streets are allowed. One sign with a maximum area of 4 square feet per face is allowed per driveway. Each sign must comply with Chapter 18.930, Vision Clearance Areas;
 6. Temporary signs in compliance with Sections 18.435.090 and 18.435.100 are allowed;
 7. Lawn signs in compliance with Paragraphs 18.435.060.A.1, A.6, and B.2 are allowed;
 8. Special condition signs in compliance with Section 18.435.090 are allowed; and
 9. Additional allowed signs include awning signs and painted wall signs are allowed.
- B. C-G and MUE zones. Signs other than the following are prohibited in the C-G and MUE zones:
 1. Freestanding signs are allowed, subject to the following limitations and conditions:
 - a. One multi-faced, freestanding sign is allowed,

- b. A reader-board assembly may be an integral part of the freestanding sign;
 - c. The maximum square footage of signs is 70 square feet per face and a total of 140 square feet for all sign faces. Freestanding signs may not extend over a property line into the public right-of-way;
 - d. The sign area may be increased 1 square foot for each lineal foot the sign is moved back from the front property line to which the sign is adjacent. If the street is curbed and paved, the measurement is taken from a point that is 15 feet from the pavement. This increase in sign area is limited to a maximum of 90 square feet per face or a total of 180 square feet for all faces, and
 - e. The maximum height of freestanding signs located next to the public right-of-way is 20 feet. Height may be increased one foot for each 10 feet of setback from the property line or a point 15 feet from the edge of pavement, whichever is less, to a maximum of 22 feet in height;
2. Wall signs are allowed, subject to the following limitations and conditions:
 - a. Wall signs, including illuminated reader-boards, may be erected or maintained up to a maximum gross area of 15 percent of any building face on which the sign is to be mounted,
 - b. Wall signs may not project more than 18 inches from the wall or extend above the wall to which they are attached, and
 - c. If it is determined through the site development review process that the wall sign's visual appeal and overall design quality would be served, an additional 50 percent of the sign area may be allowed. No copy is allowed in the additional area. For purposes of this subsection, "copy" includes symbols, logos, and letters;
 3. Directional signs on private property designed solely to identify driveway entrances and exits for motorists on adjoining public streets are allowed. One sign with an area of 4 square feet per face is allowed per driveway. Each sign must comply with Chapter 18.930, Vision Clearance Areas;
 4. Electronic information signs in compliance with Subsection 18.435.090.C are allowed;
 5. Temporary signs in compliance with Sections 18.435.090 and 18.435.100 are allowed;
 6. Lawn signs in compliance with Paragraphs 18.435.060.A.6 and B.2 are allowed;
 7. Special condition signs in compliance with Section 18.435.090 are allowed; and
 8. Awning signs, flush pitched "roof" signs, freeway-oriented signs, projecting signs, and painted wall signs are allowed.
- C. C-P zone. Signs other than the following are prohibited in the C-P zone:
 1. Freestanding signs are allowed, subject to the following limitations and conditions:

- a. One multi-faced freestanding sign is allowed per premises,
 - b. A reader-board assembly may be an integral part of the freestanding sign,
 - c. The maximum square footage of freestanding signs is 32 square feet per face and a total of 64 square feet for all sign faces. Freestanding signs may not extend over a property line into the public right-of-way,
 - d. The sign area may be increased 1 square foot for each lineal foot the sign is moved back from the front property line to which the sign is adjacent. If the street is curbed and paved the measurement is taken from a point that is 15 feet from the pavement. This increase in sign area is limited to a maximum of 52 square feet per face or a total of 104 square feet for all faces, and
 - e. The maximum height of freestanding signs located next to the public right-of-way is 8 feet. Height may be increased 1 foot for each 10 feet of setback from the property line or a point 15 feet from the edge of pavement, whichever is less, to a maximum of 10 feet in height;
2. Wall signs are allowed, subject to the following limitations and conditions:
 - a. Wall signs, including illuminated reader-board signs, may be erected or maintained up to a maximum gross area of 5 percent of any wall face on which the sign is to be mounted,
 - b. Wall signs must be parallel to the face of the building upon which the sign is located, and
 - c. If it is determined through the site development review process that the wall sign's visual appeal and overall design quality would be served, an additional 50 percent of the allowable sign area may be allowed. No copy is allowed in the additional area. For purposes of this subsection, "copy" includes symbols, logos and letters;
 3. Directional signs on private property designed solely to identify driveway entrances and exits for motorists on adjoining public streets are allowed. One sign with an area of 4 square feet per face is allowed per driveway. Each sign must comply with Chapter 18.930, Vision Clearance Areas;
 4. Temporary signs in compliance with Sections 18.435.090 and 18.435.100 are allowed;
 5. Lawn signs in compliance with Paragraphs 18.435.060.A.6 and B.2 are allowed;
 6. Special condition signs in compliance with Section 18.435.090 are allowed; and
 7. Awning signs, flush pitched "roof" signs, and painted wall signs are allowed.
- D. C-N and C-C zones. Signs other than the following are prohibited in the C-N and C-C zones:
 1. Freestanding signs are allowed, subject to the following limitations and conditions:
 - a. One multi-faced freestanding sign is allowed per premises,

- b. A reader-board assembly may be an integral part of the freestanding sign;
 - c. The maximum square footage of freestanding signs is 32 square feet per face or a total of 64 square feet for all sign faces. Freestanding signs may not extend over a property line into the public right-of-way;
 - d. The sign area may be increased one square foot for each lineal foot the sign is moved back from the front property line to which the sign is adjacent. If the street is curbed and paved the measurement is taken from a point that is 15 feet from the pavement. This increase in sign area is limited to a maximum of 52 square feet per face or a total of 104 square feet for all faces, and
 - e. The maximum height of freestanding signs located next to the public right-of-way is 20 feet. Height may be increased 1 foot for each 10 feet of setback from the property line or a point 15 feet from the edge of pavement, whichever is less, to a maximum of 22 feet in height;
2. Wall signs are allowed, subject to the following limitations and conditions:
 - a. Wall signs, including illuminated reader-board signs, may be erected or maintained up to a maximum gross area of 10 percent of any building face on which the sign is to be mounted,
 - b. Wall signs must be parallel to the face of the building upon which the sign is located, and
 - c. If it is determined through the site development review process that the wall sign's visual appeal and overall design quality would be served, an additional 50 percent of the sign area may be allowed. No copy is allowed in the additional area. For purposes of this subsection, "copy" includes symbols, logos, and letters;
 3. Directional signs on private property designed solely to identify driveway entrances and exits for motorists on adjoining public streets are allowed. One sign with an area of 4 square feet per face is allowed per driveway. Each sign must comply with Chapter 18.930, Vision Clearance Areas;
 4. Temporary signs in compliance with Sections 18.435.090 and 18.435.100 are allowed;
 5. Lawn signs in compliance with Paragraphs 18.435.060.A.6 and B.2 are allowed;
 6. Special condition signs in compliance with Section 18.435.090 are allowed; and
 7. Awning signs, flush pitched "roof" signs, and painted wall signs are allowed.
- E. Industrial zones. Signs other than the following are prohibited in the I-P, I-L, or I-H zones:
 1. Freestanding signs are allowed, subject to the following limitations and conditions:
 - a. One multi-faced freestanding sign is allowed,
 - b. A reader-board assembly may be an integral part of the freestanding sign,
 - c. The maximum square footage of signs is 70 square feet per face and a total of

140 square feet for all sign faces. Freestanding signs may not extend over a property line into the public right-of-way,

- d. The sign area may be increased 1 square foot for each lineal foot the sign is moved back from the front property line to which the sign is adjacent. If the street is curbed and paved, the measurement is taken from a point that is 15 feet from the pavement. This increase in sign area is limited to a maximum of 90 square feet per face or a total of 180 square feet for all faces, and
 - e. The maximum height of freestanding signs located next to the public right-of-way is 20 feet. Height may be increased 1 foot for each 10 feet of setback from the property line or a point 15 feet from the edge of pavement, whichever is less, to a maximum of 22 feet in height;
2. Wall signs are allowed, subject to the following limitations and conditions:
 - a. Wall signs, including illuminated reader-board signs, may be erected or maintained up to a maximum gross area of 15 percent of any building face on which the sign is to be mounted,
 - b. Wall signs may not project more than 18 inches from the wall or extend above the wall to which they are attached, and
 - c. If it is determined through the site development review process that the wall sign's visual appeal and overall design quality would be served, an additional 50 percent of the sign area may be allowed. No copy is allowed in the additional area. For purposes of this subsection, "copy" includes symbols, logos and letters;
 3. Directional signs on private property designed solely to identify driveway entrances and exits for motorists on adjoining public streets are allowed. One sign with an area of 4 square feet per face is allowed per driveway. Each sign must comply with Chapter 18.930, Vision Clearance Areas;
 4. Temporary signs in compliance with Sections 18.435.090 and 18.435.100 are allowed;
 5. Lawn signs in compliance with Paragraphs 18.435.060.A.6 and B.2 are allowed;
 6. Special condition signs in compliance with Section 18.435.090 are allowed; and
 7. Awning signs, freeway-oriented signs, projecting signs, flush pitched "roof" signs, and painted wall signs are allowed.
- F. Additional requirements in commercial and industrial zones other than the MU-CBD and TMU zones. If it is determined through the site development review process that a sign's visual appeal and overall design quality would be served while maintaining the intent and purpose of this chapter, an additional 50 percent of the allowable sign area and 25 percent of sign height may be allowed. No copy is allowed in the additional area or height. For purposes of this subsection the word "copy" includes symbols, logos and figures, as well as letters.
1. Each freestanding sign must be surrounded by a landscaped area set aside to protect the sign from vehicles maneuvering on the site.

- a. The required site plan must show the size and shape of the landscaped area set aside for the sign, subject to review by the approval authority; and
 - b. On existing sites where a landscaped area is not feasible, the minimum clearance between the lowest portion of a freestanding sign and the ground is 14 feet in any vehicle maneuvering area.
2. A freestanding sign may not extend over any portion of a street, sidewalk or other public right-of-way or property unless an exception has been granted.
 3. When a premises contains more than a single tenant but is not defined as a shopping center, the provisions of a freestanding sign will take into consideration the need for providing a signing system that is harmonious in appearance and legible:
 - a. The building owner must provide, at the owner's expense, a common support for all tenant signage; and
 - b. Up to an additional 50 percent of sign copy area may be allowed through the site development review process so as to adequately identify the separate tenants when determined that the increased sign area will not be inconsistent with the purpose of this chapter.
 4. Shopping centers or industrial parks must establish a single signing format:
 - a. Up to an additional 50 percent of sign area may be allowed through the site development review process to adequately identify the complex when it can be determined that the increased sign area will not be inconsistent with the purposes of this chapter;
 - b. This increase should be judged according to unique identification needs and circumstances that necessitate additional area to make the sign sufficiently legible; and
 - c. When a shopping center or industrial park has more than one main entrance on separate frontages, a second freestanding sign may be allowed through the site development review process. The two allowable signs must face separate frontages and are not intended to be viewed simultaneously.
 5. Legal owners or occupants of properties or buildings that are in shopping plazas and are directly located, or proposed to be located, on a commercially- and industrially-zoned corner property (one or more contiguous tax lots located at the intersection of two or more public streets), are allowed to have one freestanding sign along each street frontage when all of the following are met:
 - a. A sign permit is required for each sign prior to its erection;
 - b. The total combined height of two freestanding signs on the premises may not exceed 150 percent of what is normally allowed for one freestanding sign in the same base zone;
 - c. All signs must meet the height requirement of the base zone in which the signs are located;
 - d. No more than two freestanding signs are allowed;

- e. The two allowable signs must face separate frontages and are not intended to be viewed simultaneously; and
 - f. All other provisions of this chapter apply.
6. Shopping centers in the C-G zone are entitled to freestanding signage according to the following optional standards:
 - a. A maximum of two freestanding signs are allowed per street frontage provided they can meet both sign area and sign height requirements as provided in this subsection;
 - b. The total combined height of both signs may not exceed 150 percent of the sign height normally allowed for one freestanding sign in the same base zone; however, both signs must meet the height requirements of the base zone;
 - c. The total combined sign area of both signs may not exceed 150 percent of what is normally allowed for one freestanding sign in the same base zone; however, both signs must meet the area requirements of the base zone;
 - d. The signs may not pose a vision clearance problem or project into the public right-of-way; and
 - e. A sign permit is required prior to erection of any freestanding sign referred to in this subsection.
- G. MU-CBD and TMU zones. The following signs are allowed in the TMU zone and the MU-CBD zone, except that MU-CBD zoned properties located west of Fanno Creek within the Fanno-Burnham Subarea of the Tigard Downtown Plan District are subject to the residential zone sign standards in Subsection 18.435.130.A and MU-CBD zoned properties north of Pacific Highway or with frontage on Pacific Highway or Hall Boulevard are subject to the C-G zone sign standards in Subsection 18.435.130.B.
1. General provisions.
 - a. Reader-board and electronic information signs are allowed as follows:
 - i. A freestanding sign, window sign, wall sign, or projecting sign may include a reader-board or electronic information sign component.
 - ii. If a wall or projecting sign includes such a component, the reader-board or electronic information component is limited in size to 50 square feet or 50 percent of the area of the wall or projecting sign, whichever is less.
 - iii. Messages and animation must be displayed at intervals of greater than two seconds in duration. Traveling light patterns ("chaser effect") are prohibited.
 - b. Sign lighting methods are allowed as follows:
 - i. In addition to the sign lighting methods described in Paragraph 18.435.015.A.25, backlighting is allowed as a type of indirect or external lighting where the light source is behind an opaque sign area and not directly visible from the front of the sign.

- ii. All signs may use indirect or external lighting. All indirect or external sign lighting must be shielded, angled, or located such that it does not shine directly onto adjacent properties or public rights-of-way. Signs larger than 100 square feet that use indirect or external lighting must also have shields with a cutoff angle of 90 degrees or greater to ensure that lighting is not directed upward.
 - iii. Only wall signs, window signs, or pedestrian-oriented roof signs may use internal lighting.
 - iv. Direct lighting is prohibited, except for electronic information signs and signs with neon tubes or comparable lighting tubes.
- c. Wall signs, projecting signs, and A-frame signs may project into or be located in City of Tigard public right-of-way as provided in Subsection 18.435.130.G. Any sign that projects into the City of Tigard right-of-way is subject to approval by the City Engineer. Signs may not project into or be located in Oregon Department of Transportation right-of-way.
 - d. Signs on fences, retaining walls, or walls serving the same purpose as a fence are prohibited except where specifically designed as entryway signs.
2. Freestanding signs, but not including freestanding freeway-oriented signs that are allowed as a special condition sign by Paragraph 18.435.130.G.8.
 - a. One multi-faced freestanding sign is allowed per premises. A premises with more than one street frontage may have one sign per frontage.
 - b. The maximum sign area is 32 square feet per sign face or 64 square feet for all sign faces. The maximum sign height is 3.5 feet, except for freestanding signs associated with a public multi-use trail which have a maximum sign height of 8 feet.
 - c. A freestanding sign may be located in the minimum building setback but must not be located in the public right-of-way or the clear vision area as described in Chapter 18.930, Vision Clearance Areas.
 3. Wall signs, including painted wall signs and flush pitched roof signs.
 - a. Multiple wall signs are allowed per building face.
 - b. The total maximum sign area may not exceed 15 percent of the gross area of the building face. The maximum sign height is equal to the height of the building face and may not extend above the building face, except for flush pitched roof signs which are subject to the height standards in Subsection 18.435.090.F. The maximum horizontal projection is 18 inches.
 - c. A wall sign may project into the minimum building setback and public right-of-way. The minimum vertical clearance for wall signs that project into the public right-of-way is 10 feet from sidewalk grade.
 4. Projecting signs, including awning signs.
 - a. One projecting sign is allowed per building. A building with more than one

street frontage may have one sign per frontage. The maximum sign area is 32 square feet per sign face or 64 square feet for all sign faces. A building with more than one street frontage may have one sign on the building corner at the intersection of two street frontages in lieu of one sign per frontage. The maximum sign area for a corner projecting sign is 50 square feet per sign face or 100 square feet for all sign faces.

- b. A building may have the following additional projecting signs:
 - i. A building may have one or more additional awning signs where awnings are provided on the building face that project at least 4 feet into the public right-of-way and occupy at least 50 percent of the width of the building face. The additional signage may not exceed 32 square feet in size.
 - ii. A building may have one or more additional projecting signs where the signs are perpendicular to the building face, less than 4.5 square feet in size per sign face, and located less than 10 feet from sidewalk grade as measured from the top of sign. The number of additional signs may not exceed the number of first-story tenant spaces in the building.
 - c. A projecting sign may project into the minimum building setback and public right-of-way. For signs that project into the right-of-way, the minimum vertical clearance for awning signs and signs less than 4.5 square feet in size per sign face must be 8 feet from sidewalk grade. The minimum vertical clearance for all other projecting signs is 10 feet from sidewalk grade. The maximum horizontal projection into the right-of-way is 6 feet or the minimum sidewalk width along the building frontage, whichever is less. A projecting sign may not conflict with an existing or planned street tree.
5. Pedestrian-oriented roof signs.
 - a. A pedestrian-oriented roof sign is allowed only on buildings with a height of 20 feet or less.
 - b. The maximum number of signs allowed is equal to the number of first-story tenant spaces in the building.
 - c. The maximum sign area is 45 square feet. The maximum sign height is 2 feet above the roof line of the building and may not extend below the roof line of the building.
 - d. The sign must be oriented to the street upon which the building fronts.
 6. A-frame signs.
 - a. The maximum number of A-frame signs allowed is equal to the number of first-story tenant spaces in the building or the equivalent of one sign for every 30 linear feet of street-facing building facade, whichever is greater.
 - b. The maximum sign area is 6 square feet per sign face or 12 square feet for all sign faces. The maximum sign width and height is 3 feet.
 - c. An A-frame sign may be located on private property or in the public right-of-

way adjacent to any premises by the person in control of those premises. Where the sign is located in the right-of-way, it must be located so as to maintain a minimum unobstructed sidewalk width of 4 feet for pedestrian through-travel. It must be located behind the curb or a minimum of 10 feet from the edge of the nearest travel lane where no curb is present. It may not be located in the clear vision area described in Chapter 18.930, Vision Clearance Areas, or where it conflicts with the use of any service area, driveway, water quality facility, bicycle parking area, or on- or off-street parking or loading area. It may be located in a landscape strip with approval by the City Engineer.

- d. Display of A-frame signs is prohibited when the sign owner's business is closed to the public.
7. Permit exempt signs, such as directional and window signs, are allowed as described in Subsection 18.435.060.A, except that the total maximum sign area of all window signs may not exceed 25 percent of the gross window area on the building face.
8. Special condition signs, such as bench, cultural institution, entryway, and freeway-oriented signs are allowed as described in Section 18.435.090. Freeway-oriented signs are only allowed in the TMU zone adjacent to the Highway 217 or Interstate 5 rights-of-way.
9. Temporary signs, such as balloon, banner, and lawn signs are allowed as described in Subsection 18.435.100, except that A-frame signs are allowed as described in Paragraph 18.435.130.G.6.
- H. Mixed-use zones except MU-CBD and TMU zones. Sign standards for the MUE-1, MUE-2, MUC, MUC-1, and MUR zones are located in their respective plan districts in Chapter 18.620, Bridgeport Village Plan District, and Chapter 18.670, Washington Square Regional Center Plan District.
(Ord. 09-13 ; Ord. 10-02 §2; Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

CHAPTER 18.440 **Temporary Uses**

§ 18.440.010. Purpose.

The purpose of this chapter is to establish standards for the approval of temporary uses.
(Ord. 17-22 §2)

§ 18.440.020. Applicability.

- A. Applicability. This chapter applies to all types of temporary uses listed in Section 18.440.030, unless they are exempt in Subsection 18.440.020.C or D.
- B. Disclaimer. This chapter is not intended to be a way to circumvent the strict application of the base zones. Therefore, time limits are to be strictly enforced.
- C. Temporary uses allowed. The following temporary uses are allowed without a temporary use permit:
 1. Seasonal and special events conducted exclusively by and for the benefit of a Tigard-based nonprofit organization;
 2. Temporary Shelter, as an accessory use to a Religious Institution use or a Social/Fraternals Clubs/Lodges use, where the following are met:
 - a. No more than 20 people are provided shelter at a time,
 - b. Each stay does not exceed 30 days, and
 - c. Temporary shelter is not provided on the property more than 90 total days in a year.
 3. Garage sales;
 4. Temporary construction offices in conjunction with the initial development of residential, commercial or industrial property (three or more dwelling units or lots); or
 5. Seasonal and special events located entirely within the PR zone, public right-of-way, or city-owned property provided the use has received a special event permit pursuant to Tigard Municipal Code Chapter 7.48.
- D. Emergency situations. The Director may waive any of the requirements in this chapter or request additional information in compliance with Chapter 18.710, Land Use Review Procedures, for cases that involve destruction of an existing structure due to fire, natural causes, or other circumstances that are beyond the control of the applicant. An emergency as allowed by this subsection does not include failure by the applicant to submit a temporary use request as provided in this chapter.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1; Ord. 20-01 §1)

§ 18.440.030. Types of Temporary Uses.

- A. Seasonal or special event. This type of temporary use is a use that by its nature will last less than one year. Examples of this type of use are those associated with the sale of goods for

a specific holiday, activity, or celebration, uses associated with construction, or seasonal use. This type of use does not apply to businesses seeking a temporary or interim location. These types of temporary uses include:

1. Use associated with the celebration of a specific holiday such as the sale of Christmas trees and fireworks;
 2. Use associated with the sale of fresh fruits, produce, and flowers, including seasonal markets by a chartered public service or non-profit organization that may offer additional products and services as provided in the organization's "market rules and policies" such as landscaping plants, prepared food, animal products, and art or handcrafts assembled by the vendor;
 3. Use associated with festivals or celebrations or special events;
 4. Seasonal activities such as the sale of food at sports events or activities;
 5. Use associated with construction such as the storage of equipment during the construction of roads or development, but not a temporary sales office or model home as provided by this chapter; and
 6. Temporary fund raising and other civic activities in commercial zones.
- B. Unforeseen or emergency situations. This type of temporary use is a use that is needed because of an unforeseen event such as fire, windstorm, flood, unexpected health or economic hardship, or due to an eviction resulting from condemnation or other proceedings. Examples of this type of temporary use include:
1. A mobile home or other temporary structure for a residential purpose in a residential zone;
 2. A mobile home or other temporary structure for a business purpose in a commercial or industrial zone; and
 3. Use of an existing dwelling or mobile or manufactured home during the construction period of a new dwelling unit on the same lot.
- C. Temporary sales office or model home. This type of use includes a temporary sales office or offices either in a dwelling unit or in another temporary building for the purpose of facilitating the sale of real property in any subdivision or property within this city. This includes the use of one dwelling unit in a subdivision as a "model home" for purposes of showing prospective buyers.
- D. Temporary use in commercial and industrial zones. This type of temporary use includes a temporary trailer or prefabricated building for use on any commercially or industrially zoned property within the city as a temporary commercial or industrial office or space associated with the primary use on the property.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 20-01 §1)

§ 18.440.040. Approval Process.

- A. Approval process. Temporary use applications are processed through a Type I procedure, as provided in Section 18.710.050.

- B. Approval period. An approval for a temporary use is valid for a period of 1 year unless otherwise stipulated by the approval.
- C. Expiration. An approval for the temporary use will expire if:
1. Substantial construction of the approved plan or onset of the approved activity has not begun within the approval period; and
 2. Construction or activity on the site is a departure from the approved plan.
- (Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.440.050. Approval Criteria.

- A. Seasonal and special events. The approval authority will approve or approve with conditions seasonal and special events when all of the following are met:
1. The use occurs only once in a calendar year and for no longer a period than 30 consecutive days, except as provided in Paragraph 18.440.050.A.6;
 2. The use is allowed in the applicable base zone;
 3. The applicant has proof of the property owner's permission to place the use on the property;
 4. There will be no parking utilized by the customers and employees of the temporary use that is required to meet the minimum parking requirements for the other uses on the property, as required by Chapter 18.410, Off-Street Parking and Loading;
 5. The use will provide adequate vision clearance, as required by Chapter 18.930, Vision Clearance Areas, and not obstruct pedestrian access on public rights-of-way; and
 6. Seasonal markets are allowed in the C-G and MU-CBD zones and may operate from April through October. The applicant must provide "market rules and policies" for city approval, which are consistent with the seasonal market use description in Paragraph 18.440.030.A.2 and will be observed for the duration of the permit. Market rules and policies must include hours of operation, location, product guidelines, vendor obligations, vehicle loading or unloading, and any other applicable policies guiding the operation of the market. The city may also consider the following criteria:
 - a. Provide documentation demonstrating adequate and safe ingress and egress exist when combined with the other uses of the property, in compliance with Chapter 18.920, Access, Egress, and Circulation;
 - b. Provide documentation demonstrating the use will not create a traffic hazard, including coordination with ODOT if applicable;
 - c. Provide documentation that the use will not create adverse off-site impacts related to noise, odors, vibrations, glare, or lights that would be greater than otherwise allowed by uses allowed in the base zone; and
 - d. Signs are allowed as provided in Chapter 18.435, Signs; however, temporary signs may be approved for a period of time to correspond with the duration of the seasonal market use.

B. Unforeseen or emergency situations. The approval authority will approve or approve with conditions unforeseen or emergency situations when all of the following are met:

1. The need for the use is the direct result of a casualty loss such as fire, wind storm, flood, or other severe damage by the elements to a pre-existing structure or facility previously occupied by the applicant on the premises for which the permit is sought; or
2. The use of a mobile or manufactured home on a lot with an existing dwelling unit is necessary to provide adequate and immediate health care for a relative who needs close attention who would otherwise be required to receive needed attention from a hospital or care facility; or
3. The applicant has been evicted within 60 days of the date of the application from a pre-existing occupancy of the premises for which the permit is sought as a result of condemnation proceedings by a public authority, or eviction by abatement of nuisance proceedings, or by determination of a public body or court having jurisdiction that the continued occupancy of the facilities previously occupied constitutes a nuisance or is unsafe for continued use; or
4. There has been a loss of leasehold occupancy rights by the applicant due to unforeseeable circumstances or other hardship beyond the foresight and control of the applicant; and
5. There exists adequate and safe ingress and egress when combined with the other uses of the property, as required by Chapter 18.920, Access, Egress and Circulation, and Chapter 18.930, Vision Clearance Areas; and
6. There exists adequate parking for the customers of the temporary use as required by Chapter 18.410, Off-Street Parking and Loading; and
7. The use will not result in congestion on adjacent streets; and
8. The use will pose no hazard to pedestrians in the area of the use; and
9. The use will not create adverse off-site impacts including noise, odors, vibrations, glare, or lights that will affect adjoining uses in a manner that other uses allowed in the base zone would not affect adjoining uses; and
10. The use can be adequately served by sewer or septic system and water, if applicable.

C. Temporary sales office or model home. The approval authority will approve or approve with conditions a temporary sales office or model home when all of the following are met:

1. Temporary sales office.
 - a. The temporary sales office must be located within the boundaries of the subdivision or property in which the real property is to be sold; and
 - b. Sales offices approved through the provision of this chapter may not be permanent.
2. Model home.

- a. The model home must be located within the boundaries of the subdivision or property where the real property to be sold is situated; and
 - b. The property to be used for a model house must be a permanently designed dwelling unit.
- D. Temporary use in commercial and industrial zones. The approval authority will approve or approve with conditions a temporary trailer or prefabricated building when all of the following are met:
1. The temporary trailer must be located within the boundaries of the property on which it is located;
 2. The property to be used for a temporary trailer must already be developed;
 3. There exists adequate and safe ingress and egress when combined with the other uses of the property; as required by Chapter 18.920, Access, Egress, and Circulation, and Chapter 18.930, Vision Clearance Areas;
 4. There exists adequate parking for the customers or users of the temporary use as required by Chapter 18.410, Off-Street Parking and Loading;
 5. The use will not result in congestion on adjacent streets;
 6. The use will pose no hazard to pedestrians in the area of the use;
 7. The use will not create adverse off-site impacts including noise, odors, vibrations, glare, or lights that will affect the adjoining uses in a manner that other uses allowed in the base zone would not affect the adjoining uses;
 8. The use can be adequately served by sewer or septic system and water, if applicable; and
 9. The length of time that the temporary building will be used is the maximum needed to address the hardship.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 20-01 §1)

**CHAPTER 18.450
Wireless Communication Facilities**

§ 18.450.010. Purpose.

The purpose of this chapter is to ensure that wireless communication facilities are regulated in a manner that:

- A. Minimizes visual impacts;
- B. Promotes universal service to all customers;
- C. Encourages collocation of facilities to minimize the number of new facilities required;
- D. Ensures structural safety;
- E. Ensures all providers are fairly treated; and
- F. Protects neighborhood livability.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.450.020. Exemptions.

The following uses and activities are exempt from the regulations of this chapter:

- A. Existing towers and antennas and any repair, reconstruction, or maintenance of these facilities that do not create a significant change in visual impact;
- B. Ham radio towers, citizen band transmitters, and antennas;
- C. Microwave dishes;
- D. Antennas and equipment completely located within an existing structure whose purpose is to enhance or facilitate communication function of other structures on the same property.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.450.030. Uses Allowed.

- A. Collocation on existing towers. Installation of an antenna on an existing communication tower of any height is allowed, provided the additional antenna is no more than 20 feet higher than the existing tower, the tower is not in the public right-of-way, and the color of the antenna blends with the existing structure or surroundings.
- B. Collocation on existing non-tower structures. Installation of an antenna on an existing structure other than a tower, such as a building, water tank, sign, light fixture, or utility pole, is allowed provided the supporting structure is not in a public right-of-way, the additional antenna is no more than 20 feet higher than the existing structure, and the color of the antenna blends with the existing structure or surroundings. Collocation of small cells in a public right-of-way is subject to the standards of Paragraph 18.450.030.E.
- C. Installation of accessory equipment shelters. The installation of accessory equipment shelters and related equipment is allowed at or near the base of a tower or structure where collocation is allowed as provided in Subsections 18.450.030.A and B subject to the following:

1. The accessory equipment shelter and related equipment are either located completely within the existing structure, or are located within a previously approved fenced area;
 2. The equipment shelter and related equipment must comply with the applicable development standards in Chapter 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards;
 3. No previously-approved landscaping may be removed to locate the accessory equipment shelter and related equipment. If any such landscaping is removed, the applicant must replace it with the equivalent quantity and type of landscaping on site, in a manner to achieve the original intent, or to achieve sufficient screening of any proposed new shelter or equipment if the original intent would no longer be applicable. If any removed landscaping cannot be replaced on site, then the applicant is subject to a site development review as provided in Section 18.450.040.
- D. Towers in the I-L and I-H zones. Locating a tower of any height, including antennas, other supporting equipment, and accessory equipment shelters, is allowed in the I-L and I-H zones, provided that such a tower is set back from any existing off-site residence by a distance equal to the height of the tower. Any accessory equipment shelter must comply with the development standards of the applicable development standards in Chapter 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards. Towers in the right-of-way are subject to either the small cell standards of Subsection 18.450.030.E or the site development review process of Section 18.450.040.
- E. Small cells. The following small cell facilities are allowed in a public right-of-way:
1. Small cell antennas and accessory equipment mounted to existing public infrastructure or small cell monopoles, when all of the following are met:
 - a. A valid lease, license, or franchise agreement is in place for the use of the public facility improvement or public infrastructure;
 - b. A right-of-way permit has been issued for the installation of the antenna and accessory equipment; and
 - c. The color of the antenna and accessory equipment are of similar color to the supportive infrastructure.
 - d. The small cell facility does not increase the height of the infrastructure by more than 10 percent or 10 feet, whichever is greater, and the total height is not more than 35 feet in any residential zone or 50 feet in any other zone.
 2. Small cell monopoles, including antennas and associated accessory equipment, when all of the following are met:
 - a. The monopole does not exceed 30 feet in height;
 - b. A valid lease, license, or franchise agreement is in place for the use of the right-of-way;
 - c. A public facility improvement or right-of-way permit has been issued for the installation of tower and associated equipment; and
 - d. The color of the tower and associated equipment are of similar color to other

proximate utility poles.
(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.450.040. Uses Allowed Subject to Site Development Review.

- A. Uses allowed. The following uses are subject to approval through a site development review as provided in Chapter 18.780, Site Development Review, using the standards of Subsection 18.450.040.B as approval criteria:
 1. Towers in commercial zones and the I-P zone. A tower, including antennas, other support equipment, or accessory equipment shelters, in any commercial or I-P zone, provided that such a tower is set back from any existing off-site residence by a distance equal to the height of the tower.
 2. Towers in the parks and recreation zone. A tower, including antennas, other support equipment, or accessory equipment shelters, in the parks and recreation zone, provided that such a tower is set back from any existing off-site residence by a distance equal to the height of the tower.
 3. Collocations. Collocation of an antenna that extends more than 20 feet above an existing tower or non-tower structure.
 4. Accessory equipment shelter. Additional accessory equipment shelters or related equipment must be screened as required by Subparagraph 18.450.040.B.7.b.
 5. Towers in public rights-of-way. Installation of a tower exceeding 30 feet in height within any public right-of-way, provided that such tower is set back from any off-site residence by a distance equal to the height of the tower and the tower does not exceed 50 feet in height.
 6. Small cell facilities. Installation of any small cell facility in a public right-of-way that increases the height of the infrastructure it is attached to by more than 10 percent or 10 feet, whichever is greater, provided that the total height does not exceed 40 feet in any residential zone or 50 feet in any other zone.
- B. Standards. Any use subject to site development review is reviewed using the following standards:
 1. Aesthetic.
 - a. New towers must include a non-reflective grey finish or be painted pursuant to FAA requirements;
 - b. If collocation is requested, the design of any antenna, accessory structures, or equipment must, to the extent possible, use materials, colors, and textures that will match the existing tower or non-tower structure to which the equipment is being attached;
 2. Setbacks.
 - a. Towers designed to collapse within themselves must be set back in compliance with the setbacks of the applicable development standards in Chapter 18.200 Residential Development Standards or 18.300 Nonresidential Development

Standards, except that all towers must be set back a minimum of 35 feet from any adjacent residentially zoned lot;

- b. Towers not designed to collapse within themselves must be set back from the property line by a distance equal to or greater than the height of the tower.
3. Tower spacing. No new tower is allowed within 500 feet of an existing tower. Small cell facilities in a public right-of-way are exempt from this standard, but must meet any spacing requirements of the city's engineering standards.
4. Tower height.
 - a. The maximum height for a tower not in a public right-of-way is 100 feet. If the tower includes antennas owned by multiple providers, the maximum height is 125 feet.
 - b. The maximum height for a tower in a public right-of-way is 50 feet, except that the maximum height in residential zones is 35 feet.
5. Lighting. No lighting is allowed on a tower except the following:
 - a. Lighting required by the FAA; and
 - b. Streetlights mounted on provider-installed small cell monopoles in a public right-of-way when approved by the city engineer.
6. Fencing and security. Towers and ancillary facilities must be enclosed by a minimum 6-foot fence. Small cell facilities in a public right-of-way are exempt from this standard.
7. Landscaping and screening. Towers and ancillary equipment not within a right-of-way must meet the following:
 - a. Landscaping must be placed outside the required fence and must consist of evergreen shrubs that will reach 6 feet in height and 95 percent opacity within 3 years of planting;
 - b. When adjacent to or within residentially-zoned property, freestanding towers and accessory equipment facilities must be screened by the planting of a minimum of 4 evergreen trees at least 15 feet in height at the time of planting. These trees must effectively screen the wireless facilities from residential uses. Existing evergreen trees at least 15 feet in height may be used to meet the screening requirement of this section if the applicant demonstrates that they provide screening for abutting residential uses.
8. Noise. Noise-generating equipment must be sound-buffered by means of baffling, barriers, or other suitable means to reduce the sound level measured at the property line to 50 dBA (day)/40 dBA (night) when adjacent to a noise-sensitive land use and 75 dBA (day)/60 dBA (night) when adjacent to other uses.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.450.050. Uses Allowed Subject to Conditional Use Review.

- A. Uses allowed. The following uses are subject to approval through a conditional use review,

as provided in Chapter 18.740, Conditional Uses, using the standards in Subsection 18.450.050.B as approval criteria:

1. Towers in residential zones. A tower, including antennas, other support equipment or accessory equipment shelters, in any residential zone, with the exception of small cell facilities in the right-of-way;
2. Towers within areas with historic overlay designation. A tower, including antennas, other support equipment or accessory equipment shelters, in areas with historic overlay designation;
3. Towers in excess of 100 feet for a single user and 125 feet for multiple users except those located in the I-L and I-H zones, which are allowed as provided in Subsection 18.450.030.D.

B. Standards. Any use subject to conditional use review is reviewed using the following:

1. Protection of points of visual interest.
 - a. Views from residential structures located within 250 feet of the proposed wireless communication facility to the following points of visual interest must be protected to the greatest practical extent:
 - i. Mountains;
 - ii. Significant public open spaces;
 - iii. Historic structures.
 - b. The following standards are used to protect the above identified points of visual interest to the greatest practical extent if views from a residential structure located within 250 feet from a proposed wireless communication facility to a point of visual interest specifically identified above is significantly affected:
 - i. Investigate other locations within the same lot where such visual impacts can be minimized overall;
 - ii. Investigate alternative tower designs that can be used to minimize the interruption of views from the residence to the point of visual interest;
 - iii. Minimize visual impacts to the point of visual interest referred to above, by demonstrating that collocation or the use of other structures within the applicant's service area is not feasible at this time;
 - iv. Minimize visual impacts by varying the setbacks or landscaping standards that would otherwise be applicable, provided the overall impact of the proposed development is as good or better than that would otherwise be required without said variations.
2. Color. Towers must have a non-reflective surface and a neutral color that is the same or similar color as the supporting structure to make the antennas and related equipment as visually unobtrusive as possible, or, if required by the FAA, be painted pursuant to the FAA's requirements;

3. Setbacks. Towers must be set back from the property line by a distance equal to the height of the tower.
 4. Tower spacing. No new tower in a residential zone is allowed within 2,000 feet of an existing tower. No new tower in nonresidential zones is allowed within 500 feet of an existing tower.
 5. Lighting. No lighting is allowed on a tower except as required by the FAA;
 6. Fencing and security. For security purposes, towers and ancillary facilities must be enclosed by a 6-foot fence;
 7. Landscaping and screening.
 - a. Landscaping must be placed outside the fence and must consist of evergreen shrubs that will reach 6 feet in height and 95 percent opacity within 3 years of planting.
 - b. When adjacent to or within residentially-zoned property, freestanding towers and accessory equipment facilities must be screened by the planting of a minimum of 4 evergreen trees at least 15 feet in height at the time of planting. These trees must effectively screen the wireless facilities from residential uses. Existing evergreen trees at least 15 feet in height may be used to meet the screening requirement of this section if the applicant demonstrates that they provide screening for abutting residential uses.
 8. Noise. Noise-generating equipment must be sound-buffered by means of baffling, barriers or other suitable means to reduce the sound level measured at the property line to 50 dBA (day)/40 dBA (night) when adjacent to a noise-sensitive land use and 75 dBA (day)/60 dBA (night) when adjacent to other uses.
- C. Other requirements. At the time a provider requests a building permit, it shall demonstrate compliance to all applicable state and federal regulations, including, but not limited to, the state building codes and FAA.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.450.060. Collocation Protocol.

- A. Purpose. The purpose of this requirement is to create a process that will allow providers to equitably share publicly-available, non-proprietary information among themselves, with interested persons and agencies, and with the city, at the time the provider schedules a pre-application conference with the approval authority. This collocation protocol is designed to increase the likelihood that all reasonable opportunities for collocation have been investigated and the appropriate information has been shared among providers.

The city recognizes that collocation is preferable, where technologically feasible and visually desirable, as a matter of public policy, but that collocation of antennas by providers is not always feasible for technical or business reasons. However, if all licensed providers are made aware of any pending tower or antenna permit requests, such disclosure will allow providers to have the maximum amount of time to consider possible collocation opportunities, and will also assure the city that all reasonable accommodations for collocation have been investigated. The code creates strong incentives for collocation

because proposals for collocation qualify for a less rigorous approval process.

- B. Applicability. Requirements for the collocation protocol apply only to new towers subject to site development review or conditional use.
- C. Pre-application requirement. A pre-application conference is required for all proposed freestanding towers except those in the I-L and I-H zones, which are allowed.
- D. Collocation request letter requirement. At the time a pre-application conference is scheduled, the applicant must demonstrate that the following notice was mailed to all other wireless communication providers licensed to provide service within the city's boundaries:

"Pursuant to the requirements of 18.450.060, [name of wireless provider] is hereby providing you with notice of our intent to meet with representatives of the City of Tigard in a pre-application conference to discuss the location a new freestanding wireless communication facility that would be located at [location]. In general, we plan to construct a [type of tower] of [number] feet in height for the purpose of providing [cellular, PCS] service.

Please inform us whether your company has any existing or pending wireless facilities located within [distance] of the proposed facility, that may be available for possible collocation opportunities.

Please provide us with this information within 10 business days after the date of this letter. Your cooperation is appreciated.

Sincerely [Name of pre-application applicant]."

- E. Applicant's obligation to analyze feasibility of collocation. If a response to a collocation request letter is received by an applicant indicating an opportunity for collocation on an existing tower of another provider, the applicant must make a good faith effort to analyze the feasibility of collocation. This analysis must be submitted with an application for a freestanding tower. A good faith effort to investigate the feasibility of collocation on an existing facility will be deemed to have occurred if the applicant submits all of the following information:
 - 1. A statement from a qualified engineer indicating whether the necessary service can or cannot be provided by collocation at the potential collocation site;
 - 2. Evidence that lessor of the potential collocation site either agrees or disagrees to collocation on their property;
 - 3. Evidence that adequate site area exists or does not exist at the potential collocation site to accommodate ancillary equipment for the second provider and still meet all of the development standards required by the applicable chapter in 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards;
 - 4. Evidence that adequate access does or does not exist at the possible collocation site.
- F. Result of collocation feasibility analysis. If the applicant has provided information addressing each of the criteria in Subsection 18.450.060.D, the collocation protocol will be deemed complete. The applicant's tower will then be allowed subject to the regulations provided in this chapter.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.450.070. Abandoned Facilities.

- A. Abandonment defined. A wireless communication facility that has been discontinued for a period of 6 consecutive months or longer is hereby declared abandoned.
- B. Removal of abandoned facilities. Abandoned facilities as defined in Subsection 18.450.070.A must be removed by the property owner within 90 days from date of abandonment. Failure to remove an abandoned facility is declared a public nuisance and subject to penalties as provided in Title 6, Nuisance Violations of the Tigard Municipal Code.
- C. Extension. Upon written application, prior to the expiration of the 6-month period, the director will, in writing, grant a 6-month extension for reuse of the facility. Additional extensions beyond the first 6-month extension may be granted by the director subject to any conditions required to bring the facility into compliance with current regulations and make it compatible with surrounding development.

(Ord. 17-22 §2; Ord. 18-23 §2)

**Part 18.500
SPECIAL DESIGNATIONS**

**CHAPTER 18.510
Sensitive Lands**

§ 18.510.010. Purpose.

- A. Maintain integrity of rivers, streams, and creeks. Sensitive land regulations in this chapter are intended to maintain the integrity of the rivers, streams, and creeks in Tigard by minimizing erosion, promoting bank stability, maintaining and enhancing water quality and fish and wildlife habitats, and preserving scenic quality and recreation potential.
- B. Implement comprehensive plan and floodplain management program. The regulations of this chapter apply to all areas of special flood hazard within the City of Tigard. These regulations are intended to implement the comprehensive plan and the city's floodplain management program as required by the Federal Emergency Management Agency (FEMA) through the National Flood Insurance Program, to help to preserve sensitive land areas from encroaching use, and to maintain the October 19, 2018, zero-foot rise floodway elevation. All development within the areas of special flood hazard are subject to the terms of this ordinance and required to comply with its provisions and all other applicable regulations including Tigard Municipal (TMC) Chapter 9.10.
- C. Implement Clean Water Service (CWS) design and construction standards. The regulations of this chapter are intended to protect the beneficial uses of water within the Tualatin River Basin in compliance with the CWS "Design and Construction Standards."
- D. Implement the Metro Urban Growth Management Functional Plan. The regulations of this chapter are intended to protect the beneficial water uses and functions and values of resources within water quality and flood management areas and to implement the performance standards of the Metro Urban Growth Management Functional Plan.
- E. Implement Statewide Planning Goal 5 (Natural Resources). The regulations in this chapter are intended to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule pertaining to wetland and riparian corridors.
- F. Protect public health, safety, and welfare. Sensitive land areas are designated as such to protect the public health, safety, and welfare of the community through the regulation of these sensitive land areas.
- G. Location. Sensitive lands are lands potentially unsuitable for development because of their location within:
 1. The areas of special flood hazard or 1996 flood inundation line, whichever is greater;
 2. Natural drainageways;
 3. Wetland areas that are regulated by the other agencies including the U.S. Army Corps of Engineers and the Division of State Lands, or are designated as significant wetland on the City of Tigard "Wetland and Stream Corridors Map";

4. Steep slopes of 25% or greater and unstable ground;
5. Significant fish and wildlife habitat areas designated on the City of Tigard "Significant Habitat Areas Map"; and
6. Significant tree groves as shown on the "City of Tigard Significant Tree Grove Map."
(Ord. 17-22 §2; Ord. 18-21 §2; Ord. 20-01 §1; Ord. 23-09, 12/12/2023)

§ 18.510.020. Applicability.

- A. CWS stormwater connection permit. All proposed development must obtain a stormwater connection permit from CWS in compliance with its design and construction standards.
- B. Allowed uses with no approval required. Except as provided below and by Subsections 18.510.020.D, F, and G of this section, the following uses are allowed uses within drainageways, slopes that are 25 percent or greater, and unstable ground when the use does not involve paving. For the purposes of this chapter, the word "structure" excludes: children's play equipment, picnic tables, sand boxes, grills, basketball hoops, and similar recreational equipment.
 1. Accessory uses such as lawns, gardens, or play areas; except in a water quality sensitive area or vegetated corridor, as defined in the CWS "Design and Construction Standards" or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.
 2. Farm uses conducted without locating a structure within the sensitive land area; except in a water quality sensitive area or vegetative corridor, as defined in CWS "Design and Construction Standards" or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.
 3. Community recreation uses, excluding structures; except in a water quality sensitive area or vegetated corridor, as defined in the CWS "Design and Construction Standards" or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.
 4. Public and private conservation areas for water, soil, open space, forest, and wildlife resources.
 5. Removal of poison oak, tansy ragwort, blackberry, English ivy, or other noxious vegetation.
 6. Maintenance of floodway excluding re-channeling; except in a water quality sensitive area or vegetated corridor, as defined in the CWS "Design and Construction Standards" or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.
 7. Fences; except in a water quality sensitive area or vegetated corridor, as defined in the CSW "Design and Construction Standards"; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.
 8. Accessory structures that are less than 120 square feet in size; except in a water quality sensitive area or vegetated corridor, as defined in the CSW "Design and Construction Standards"; or the Statewide Goal 5 vegetated corridor established for

the Tualatin River, as defined in Section 18.510.080.

9. Land form alterations involving up to 10 cubic yards of material; except in a water quality sensitive area or vegetated corridor, as defined in the CSW "Design and Construction Standards"; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.510.080.
- C. Exemptions. When performed under the direction of the city, the following are exempt from the provisions of this section:
 1. Responses to public emergencies, including emergency repairs to public facilities;
 2. Stream and wetlands restoration and enhancement programs, except in areas of special flood hazard when meeting the definition of development in TMC Section 9.10.020;
 3. Non-native vegetation removal;
 4. Planting of native plant species; and
 5. Routine maintenance or replacement of existing public facilities projects, except in areas of special flood hazard when meeting the definition of development in TMC Section 9.10.020.
- D. Jurisdictional wetlands. Landform alterations or developments that are only within wetland areas that meet the jurisdictional requirements and permit criteria of the U.S. Army Corps of Engineers, Division of State Lands, CWS, or other federal, state, or regional agencies, and are not designated as significant wetlands on the City of Tigard "Wetland and Streams Corridors Map," do not require a sensitive lands review. The city will require that all necessary approvals from other agencies are obtained. All other applicable city requirements must be met, including sensitive land reviews for areas within the areas of special flood hazard, slopes of 25% or greater or unstable ground, drainageways, and wetlands that are not under state or federal jurisdiction.
- E. Administrative sensitive lands review.
 1. Administrative sensitive lands reviews within the drainageways, slopes that are 25% or greater, and unstable ground are processed through a Type I procedure, as provided in Section 18.710.050, for the following actions:
 - a. The repair, reconstruction, or improvement of an existing structure or utility, the cost of which is less than 50% of the market value of the structure prior to the improvement or the damage requiring reconstruction;
 - b. Minimal ground disturbance or landform alteration involving 10 to 50 cubic yards of material; and
 - c. Building permits for accessory structures that are 120 to 528 square feet in size.
 2. Administrative sensitive lands reviews within the areas of special flood hazard are processed through a Type I procedure, as provided in Section 18.710.050, for the following actions:
 - a. Within the areas of special flood hazard but outside the floodway (floodway

fringe):

- i. The construction of accessory structures up to 528 square feet in size; and
- ii. Any landform alteration involving up to 50 cubic yards of material.
- b. Stream and wetland restoration and enhancement programs, including work in the floodway, when performed under the direction of the city.
3. The approval authority will approve, approve with conditions, or deny a sensitive land review application using the standards and approval criteria Sections 18.510.040, 18.510.050, 18.510.070 and 18.510.080.

F. Sensitive lands approvals issued by the director.

1. Sensitive land reviews within drainageways, slopes that are 25% or greater or unstable ground, and wetland areas that are not regulated by other local, state, or federal agencies are processed through a Type II procedure, as provided in Section 18.710.060, for the following actions:
 - a. Ground disturbance or land form alterations involving more than 50 cubic yards of material;
 - b. Repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50% of the market value of the structure prior to the improvement or the damage requiring reconstruction;
 - c. Residential and nonresidential structures intended for human habitation; and
 - d. Accessory structures that are greater than 528 square feet in size.
2. The approval authority will approve, approve with conditions, or deny a sensitive lands review application using the approval criteria provided in Section 18.510.070.

G. Sensitive lands approvals issued by the hearings officer.

1. Sensitive land reviews within areas of special flood hazard are processed through a Type III-HO procedure, as provided in Section 18.710.080, for the following actions:
 - a. Ground disturbance or landform alterations in all floodway areas;
 - b. Ground disturbance or landform alterations in floodway fringe locations involving more than 50 cubic yards of material;
 - c. Repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50% of the market value of the structure prior to the improvement or the damage requiring reconstruction provided no development occurs in the floodway;
 - d. Structures intended for human habitation; and
 - e. Accessory structures that are greater than 528 square feet in size, outside of floodway areas.
2. The approval authority will approve, approve with conditions, or deny a sensitive

lands review application using the approval criteria provided in Section 18.510.070.

- H. Other uses. Except as explicitly authorized by other provisions of this chapter, all other uses are prohibited on sensitive land areas.

- I. Nonconforming uses. A use established prior to the effective date of this title, which would be prohibited by this chapter or that would be subject to the limitations and controls imposed by this chapter, shall be considered a nonconforming use. Nonconforming uses shall be subject to the provisions of Chapter 18.50, Nonconforming Circumstances.

(Ord. 17-22 §2; Ord. 18-21 §2; Ord. 18-23 §2; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 23-09, 12/12/2023)

§ 18.510.030. Administrative Provisions.

- A. Interagency coordination. The approval authority will review all applications for a sensitive lands review to determine that all necessary approvals be obtained from those federal, state, or local governmental agencies, from which prior approval is also required.

As provided in CWS "Design and Construction Standards," the necessary permits for all "development" must comply include a CWS service provider letter, which specifies the conditions and requirements necessary, if any, for an applicant to comply with CWS water quality protection standards and for the agency to issue a stormwater connection permit.

- B. Applicable standards and criteria. The approval authority will apply the standards and criteria provided in this chapter when reviewing an application for a sensitive lands review.

(Ord. 17-22 §2; Ord. 18-21 §2; Ord. 18-23 §2; Ord. 23-09, 12/12/2023)

§ 18.510.040. Reserved.

§ 18.510.050. General Provisions for Wetlands.

- A. Code compliance requirements. Wetland regulations apply to those areas classified as significant on the City of Tigard "Wetland and Streams Corridors Map," and to a vegetated corridor ranging from 25 to 200 feet wide, measured horizontally, from the defined boundaries of the wetland, as provided in "Table 3.1, Vegetated Corridor Widths," and "Appendix C, Natural Resource Assessments," of the CWS "Design and Construction Standards." Wetland locations may include but are not limited to those areas identified as wetlands in "Wetland Inventory and Assessment for the City of Tigard, Oregon," Fishman Environmental Services, 1994.
- B. Delineation of wetland boundaries. Precise boundaries may vary from those shown on wetland maps; specific delineation of wetland boundaries may be necessary. Wetland delineation will be done by qualified professionals at the applicant's expense.

(Ord. 17-22 §2; Ord. 18-21 §2)

§ 18.510.060. Approval Period and Extensions.

Expirations and extensions of approvals are provided in Subsection 18.20.050.G.

(Ord. 17-22 §2; Ord. 18-21 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.510.070. Sensitive Lands Applications.

- A. Approval required. An applicant, who wishes to develop within a sensitive area, as defined in this chapter, must obtain approval in certain situations. Depending on the nature and intensity of the proposed activity within a sensitive area, either a Type II or Type III review is required, as provided in Subsections 18.510.020.F and G. The approval criteria for different types of sensitive areas are provided in Subsections 18.510.070.B–E.
- B. Within the areas of special flood hazard. The approval authority will approve or approve with conditions an application for sensitive lands review within the areas of special flood hazard when all of the following criteria are met:
 1. Compliance with all of the applicable requirements of this title and TMC Chapter 9.10;
 2. Land form alterations must preserve or enhance the areas of special flood hazard storage function and maintenance of the zero-foot rise floodway must not result in any encroachments, including fill, new construction, substantial improvements and other development unless certified by a registered professional engineer that the encroachment will not result in any increase in flood levels during the base flood discharge;
 - a. If in the floodway and no-rise requirement is met, the development will comply with all applicable flood hazard reduction provisions.
 3. Land form alterations or developments within the areas of special flood hazard are allowed only in areas designated as commercial, industrial, or parks and recreation on the comprehensive plan land use map, except that alterations or developments associated with community service uses, utilities, or public support facilities are allowed on residentially zoned properties subject to applicable zoning standards;
 4. Where a land form alteration or development is allowed to occur within the areas of special flood hazard it will not result in any increase in the water surface elevation of the 100-year flood;
 5. The land form alteration or development plan includes a pedestrian or bicycle pathway in compliance with the adopted Transportation System Plan or Greenways Trail System Master Plan, unless the construction of said pathway is deemed as untimely;
 6. Pedestrian or bicycle pathway projects within the areas of special flood hazard must include a wildlife habitat assessment that shows the proposed alignment minimizes impacts to significant wildlife habitat while balancing the community's recreation and environmental educational goals;
 7. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS permits and approvals must be obtained; and
 8. Where land form alterations or development are allowed within and adjacent to the areas of special flood hazard, the city will require the consideration of dedication of sufficient open land area within and adjacent to the areas of special flood hazard in compliance with the comprehensive plan. This area must include portions of a suitable elevation for the construction of a pedestrian or bicycle pathway within the areas of special flood hazard in compliance with the adopted Transportation System

Plan or Greenways Trail System Master Plan.

- C. With steep slopes. The approval authority will approve or approve with conditions an application for a sensitive lands review on slopes of 25% or greater or unstable ground when all of the following criteria are met:
 - 1. Compliance with all of the applicable requirements of this title;
 - 2. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;
 - 3. The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;
 - 4. The structures are appropriately sited and designed to ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions: wet or high water table; high shrink-swell capability; compressible or organic; and shallow depth-to-bedrock; and
 - 5. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in compliance with CWS "Design and Construction Standards".
- D. Within drainageways. The approval authority will approve or approve with conditions an application for a sensitive lands review within drainageways when all of the following criteria are met:
 - 1. Compliance with all of the applicable requirements of this title;
 - 2. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;
 - 3. The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;
 - 4. The water flow capacity of the drainageway is not decreased;
 - 5. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in compliance with CWS "Design and Construction Standards";
 - 6. The drainageway will be replaced by a public facility of adequate size to accommodate maximum flow in compliance with Clean Water Services requirements and the city's adopted stormwater master plan;
 - 7. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS approvals must be obtained;
 - 8. Where land form alterations or development are allowed within and adjacent to the areas of special flood hazard, the city will require the consideration of dedication of

sufficient open land area within and adjacent to the areas of special flood hazard in compliance with the comprehensive plan. This area will include portions of a suitable elevation for the construction of a pedestrian or bicycle pathway within the areas of special flood hazard in compliance with the adopted pedestrian bicycle pathway plan.

- E. Within wetlands. The approval authority will approve or approve with conditions an application for a sensitive lands review within wetlands when all of the following criteria are met:
1. Compliance with all of the applicable requirements of this title;
 2. The proposed land form alteration or development is neither on wetland in an area designated as significant wetland on the comprehensive plan areas of special flood hazard and wetland map nor is within the vegetative corridor as provided in "Table 3.1 Vegetative Corridor Widths" and "Appendix C: Natural Resources Assessments" of the CWS "Design and Construction Standards," for such a wetland;
 3. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than the minimum required for the use;
 4. Any encroachment or change in on-site or off-site drainage that would adversely impact wetland characteristics have been mitigated;
 5. Where natural vegetation has been removed due to land form alteration or development, erosion control provisions of the Surface Water Management program of Washington County must be met and areas not covered by structures or impervious surfaces will be replanted in like or similar species in compliance with CWS "Design and Construction Standards";
 6. All other sensitive lands requirements of this chapter have been met;
 7. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS approvals must be obtained;
 8. Physical limitations and natural hazards, areas of special flood hazard and wetlands, natural areas, and parks, recreation and open space policies of the comprehensive plan have been met.

(Ord. 17-22 §2; Ord. 18-21 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 23-09, 12/12/2023)

§ 18.510.080. Special Provisions within Locally Significant Wetlands and Along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek.

- A. In order to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule (OAR 666-023-0030) pertaining to wetlands, all wetlands classified as significant on the City of Tigard "Wetlands and Streams Corridors Map" are protected. No land form alterations or developments are allowed within or partially within a significant wetland, except as allowed or approved in compliance with Section 18.510.100.
- B. In order to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule (OAR 660-023-0030) pertaining to riparian corridors, a standard setback distance or vegetated corridor area, measured horizontally from and parallel to the top of the bank, is established for the

Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek.

1. The standard width for "good condition" vegetated corridors along the Tualatin River is 75 feet, unless wider in compliance with CWS "Design and Construction Standards," or modified in compliance with Section 18.510.100. If all or part of a locally significant wetland (a wetland identified as significant on the City of Tigard "Wetlands and Streams Corridors Map") is located within the 75-foot setback area, the vegetated corridor is measured from the upland edge of the associated wetland.
2. The standard width for "good condition" vegetated corridors along Fanno Creek, Ball Creek, and the South Fork of Ash Creek is 50 feet, unless wider in compliance with CWS "Design and Construction Standards," or modified in compliance with Section 18.510.100. If all or part of a locally significant wetland (a wetland identified as significant on the City of Tigard "Wetlands and Streams Corridors Map") is located within the 50-foot setback area, the vegetated corridor is measured from the upland edge of the associated wetland.
3. The minimum width for "marginal or degraded condition" vegetated corridors along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek is 50 percent of the standard width, unless wider in compliance with CWS "Design and Construction Standards," or modified in compliance with Section 18.510.100.
4. The determination of corridor condition is based on the natural resource assessment guidelines as provided in the CWS "Design and Construction Standards."
5. The standard setback distance or vegetated corridor area applies to all development proposed on property located within or partially within the vegetated corridors, except as allowed below:
 - a. Roads, pedestrian or bike paths crossing the vegetated corridor from one side to the other in order to provide access to the sensitive area or across the sensitive area, as approved by the city in compliance with Section 18.510.070 and by CWS "Design and Construction Standards";
 - b. Utility or service provider infrastructure construction (i.e. storm, sanitary sewer, water, phone, gas, cable, etc.), if approved by the city and CWS;
 - c. A pedestrian or bike path, not exceeding 10 feet in width and in compliance with the CWS "Design and Construction Standards";
 - d. Grading for the purpose of enhancing the vegetated corridor, as approved by the city and CWS;
 - e. Measures to remove or abate hazards, nuisances, or fire and life safety violations, as approved by the regulating jurisdiction;
 - f. Enhancement of the vegetated corridor for water quality or quantity benefits, fish, or wildlife habitat, as approved by the city and CWS;
 - g. Measures to repair, maintain, alter, remove, add to, or replace existing structures, roadways, driveways, utilities, accessory uses, or other developments provided they are in compliance with city and CWS regulations, and do not encroach further into the vegetated corridor or sensitive area than allowed by the

CWS "Design and Construction Standards."

6. Land form alterations or developments located within or partially within the Goal 5 safeharbor setback or vegetated corridor areas established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek that meet the jurisdictional requirements and permit criteria of the CWS, U.S. Army Corps of Engineers, Department of State Lands, or other federal, state, or regional agencies, are not subject to this subsection B, except where the:
 - a. Land form alterations or developments are located within or partially within a good condition vegetated corridor, as provided in Paragraphs 18.510.080.B.1 and 2;
 - b. Land form alterations or developments are located within or partially within the minimum width area established for marginal or a degraded condition vegetated corridor, as provided in Paragraph 18.510.080.B.3.

These exceptions reflect instances of the greater protection of riparian corridors provided by the safe harbor provisions of the Goal 5 administrative rule.

(Ord. 17-22 §2; Ord. 18-21 §2; Ord. 18-23 §2)

§ 18.510.090. Density Transfer and Reductions.

- A. Density transfer. Required residential density for apartments, rowhouses, and small form residential development may be transferred from sensitive lands using the following methods:
 1. The units per acre calculated by subtracting land areas listed in Subparagraphs 18.40.020.A.1–3 from the gross acres may be transferred to the remaining buildable land areas subject to the following limitations:
 - a. The number of units that can be transferred is limited to the number of units that would have been allowed on 25% of the unbuildable area if not for these regulations; and
 - b. The total number of units per site does not exceed 125% of the maximum number of units per gross acre allowed.
 2. Units per acre calculated by subtracting land areas listed in Paragraph 18.40.020.A.4 from the gross acres may be transferred to the remaining buildable land areas on land zoned RES-D and RES-E subject to the following limitations:
 - a. The number of units that can be transferred is limited to the number of units that would have been allowed on the wetland area, if not for these regulations;
 - b. The total number of units per site does not exceed the maximum number of units per gross acre allowed.
- B. Density reduction. The minimum number of residential units required in a development may be reduced if necessary to ensure that impacts on habitat areas are minimized. The amount of reduction in the minimum density is calculated by subtracting the square footage of inventoried significant habitat that is permanently protected from the total square footage used to calculate the minimum density requirement. The approval authority may impose

any reasonable condition necessary to mitigate identified impacts resulting from development on otherwise unbuildable land.

The approval authority will approve, approve with conditions, or deny the density reduction provided that the proposal will directly result in the protection of significant habitat areas through placement in a non-buildable tract or protected with a restrictive easement.

(Ord. 17-22 §2; Ord. 18-21 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.510.100. Plan Amendment Option.

- A. Comprehensive plan amendment. Any owner of property affected by the Goal 5 safeharbor (1) protection of significant wetlands or (2) vegetated areas established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek may apply for a comprehensive plan amendment as provided in Chapter 18.790, Text and Map Amendments. This amendment must be based on a specific development proposal. The effect of the amendment would be to remove Goal 5 protection from the property, but not to remove the requirements related to the CWS Stormwater Connection Permit, which must be addressed separately through an alternatives analysis, as described in Section 3.02.5 of the CWS "Design and Construction Standards." The applicant must demonstrate that such an amendment is justified by either of the following:
 - B. ESEE analysis. The applicant may prepare an environmental, social, economic and energy (ESEE) consequences analysis prepared in compliance with OAR 660-23-040.
 - 1. The analysis must consider the ESEE consequences of allowing the proposed conflicting use, considering both the impacts on the specific resource site and the comparison with other comparable sites within the Tigard Planning Area;
 - 2. The ESEE analysis must demonstrate to the satisfaction of the city council that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource;
 - 3. In particular, ESEE analysis must demonstrate why the use cannot be located on buildable land, consistent with the provisions of this chapter, and that there are no other sites within the Tigard Planning Area that can meet the specific needs of the proposed use;
 - 4. The ESEE analysis must be prepared by a team consisting of a wildlife biologist or wetlands ecologist and a land use planner or land use attorney, all of whom are qualified in their respective fields and experienced in the preparation of Goal 5 ESEE analysis;
 - 5. If the application is approved, then the ESEE analysis must be incorporated by reference into the Tigard Comprehensive Plan, and the "Tigard Wetland and Stream Corridor Map" be amended to remove the site from the inventory.
 - C. Demonstration of change. In this case, the applicant must demonstrate that the sensitive area site no longer meets the applicable significance threshold defined by the Goal 5 administrative rule, relative to other comparable resources within the Tigard Planning Area.
 - 1. Significance thresholds are described and applied in the addendum to the City of

Tigard Local Wetlands Inventory adopted by reference as part of this chapter.

2. To approve this claim, the city council must find that the decline in identified resource values did not result from a violation of this title.

(Ord. 17-22 §2; Ord. 18-21 §2; Ord. 18-23 §2)

§ 18.510.110. Significant Habitat Areas Map Verification Procedures.

- A. Applicants who concur that the significant habitat areas map is accurate must submit the following information to serve as the basis for verifying the boundaries of inventoried habitat areas:

1. Submission requirements.
 - a. A detailed property description;
 - b. A scale map of the property showing the locations of significant habitat areas, any existing built area, wetlands or water bodies, Clean Water Services' vegetated corridor, the areas of special flood hazard, the 1996 flood inundation line, and contour lines (two-foot intervals for slope less than 15% and 10-foot intervals for slopes 15% or greater); and
 - c. A current aerial photograph of the property.
2. The approval authority's decision will be based on consideration of submitted information, site visit information, and other factual information. Should the applicant disagree with the determination on the location of significant habitat areas on the property, the precise boundaries must be verified by the applicant in compliance with the detailed delineation methodology outlined in Subsection 18.510.110.B.

- B. Applicants who believe that the map is inaccurate must submit a detailed delineation conducted by a qualified professional in compliance with the following methodology to verify the precise boundaries of the inventoried habitat areas by means of a Type II procedure.

1. Verifying boundaries of inventoried riparian habitat. Locating habitat and determining its riparian habitat class is a 4-step process:
 - a. Locate the water feature that is the basis for identifying riparian habitat.
 - i. Locate the top of bank of all streams, rivers, and open water within 200 feet of the property.
 - ii. Locate the areas of special flood hazard or 1996 flood inundation line, whichever is greater, within 100 feet of the property.
 - iii. Locate all wetlands within 150 feet of the property. Identified wetlands on the property must be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.
 - b. Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas and within 100 feet of flood

areas.

- i. Vegetative cover status must be as identified on the metro vegetative cover map.
- ii. The vegetative cover status of a property may be adjusted only if (a) the property was developed prior to the time the regional program was approved; or (b) an error was made at the time the vegetative cover status was determined. To assert the latter type of error, applicants must submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the following definition of vegetative cover types in Table 18.510.1.

**Table 18.510.1
Definitions of Vegetative Cover Types**

Type	Definition
Low structure vegetation or open soils	Areas that are part of a contiguous area 1 acre or larger of grass, meadow, croplands, or areas of open soils located within 300 feet of a surface stream (low structure vegetation areas may include areas of shrub vegetation less than 1 acre in size if they are contiguous with areas of grass, meadow, croplands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of 1 acre in size or larger).
Woody vegetation	Areas that are part of a contiguous area 1 acre or larger of shrub or open or scattered forest canopy (less than 60 percent crown closure) located within 300 feet of a surface stream.
Forest canopy	Areas that are part of a contiguous grove of trees 1 acre or larger in area with approximately 60 percent or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature.

- c. Determine whether the degree that the land slope upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than 25 percent (using the vegetated corridor measurement methodology as provided in Clean Water Services Design and Construction Standards; and

- d. Identify the riparian habitat classes applicable to all areas on the property using Table 18.510.2 and Table 18.510.3.

Table 18.510.2 Method for Locating Boundaries of Class I and II Riparian Areas				
Development/Vegetation Status[1]				
Distance in feet from water feature	<i>Developed areas not providing vegetative cover</i>	<i>Low structure vegetation or open soils</i>	<i>Woody vegetation (shrub and scattered forest canopy)</i>	<i>Forest canopy (closed to open forest canopy)</i>
Surface streams				
0-50	Class II	Class I	Class I	Class I
50-100		Class II [2]	Class I	Class I
100-150		Class II [2] if slope > 25 percent	Class II [2] if slope > 25 percent	Class II [2]
150-200		Class II [2] if slope > 25 percent	Class II [2] if slope > 25 percent	Class II [2] if slope > 25 percent
Wetlands (Wetland feature itself is a Class I Riparian Area)				
0-100		Class II [2]	Class I	Class I
100-150				Class II [2]
Flood Areas (Undeveloped portion of flood area is a Class I Riparian Area)				
0-100			Class II [2]	Class II [2]

Notes:

[1]

The vegetative cover type assigned to any particular area was based on 2 factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged. As an example of how the categories were assigned, in order to qualify as a "forest canopy" the forested area had to be part of a larger patch of forest land at least 1 acre in size.

[2]

Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map, will be treated as Class I riparian habitat areas in all cases, subject to the provision of additional information that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro's Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

Table 18.510.3
Tualatin Basin "Limit" Decision [1]

Resource Category	Conflicting Use Category			
	<i>High Intensity Urban</i>	<i>Other Urban</i>	<i>Future Urban (2002 and 2004 additions)</i>	<i>Non-Urban (outside UGB)</i>
Class I & II Riparian inside vegetated corridor	Moderately Limit	Strictly Limit	Strictly Limit	N/A
Class I & II Riparian outside vegetated corridor	Moderately Limit	Moderately Limit	Moderately Limit	Moderately Limit

Table 18.510.3
Tualatin Basin "Limit" Decision [1]

Conflicting Use Category				
Resource Category	<i>High Intensity Urban</i>	<i>Other Urban</i>	<i>Future Urban (2002 and 2004 additions)</i>	<i>Non-Urban (outside UGB)</i>
All other Resource Areas	Lightly Limit	Lightly Limit	Lightly Limit	Lightly Limit
Inner Impact Area	Lightly Limit	Lightly Limit	Lightly Limit	Lightly Limit
Outer Impact Area	Lightly Limit	Lightly Limit	Lightly Limit	Lightly Limit

Notes:

[1]

Vegetated corridor standards are applied consistently throughout the District; in HIU areas they supersede the "limit" decision.

2. Verifying boundaries of inventoried upland habitat was identified based on the existence of contiguous patches of forest canopy, with limited canopy openings. The "forest canopy" designation is made based on analysis of aerial photographs as part of determining the vegetative cover status of land within the region. Upland habitat is as identified on the Significant Habitat Areas Map unless corrected as provided in this subsection.
 - a. The only allowed corrections to the vegetative cover status of a property area as follows:
 - i. To correct errors made when the vegetative status of an area was determined based on analysis of the aerial photographs used to inventory the habitat. The perimeter of an area delineated as "forest canopy" on the Metro Vegetative Cover Map may be adjusted to more precisely indicate the dripline of the trees within the canopied area provided that no areas providing greater than 60 percent canopy crown closure are de-classified from the "forest canopy" designation. To assert such errors, applicants must submit an analysis of the vegetative habitat cover on their property using the aerial photographs that were used to inventory the habitat and the definitions of the different vegetative cover types provided in Table 18.510.1; and
 - ii. To remove tree orchards and Christmas tree farms from inventoried habitat; provided, however, that Christmas tree farms where the trees were planted prior to 1975 and have not been harvested for sale as Christmas trees may not be removed from the habitat inventory.

- b. If the vegetative cover status of any area identified as upland habitat is corrected in compliance with Subparagraph 18.510.110.B.2.a to change the status of an area originally identified as "forest canopy," then such area will not be considered upland habitat unless it remains part of a forest canopy opening less than 1 acre in area completely surrounded by an area of contiguous forest canopy.

(Ord. 17-22 §2; Ord. 18-21 §2; Ord. 18-23 §2; Ord. 23-09, 12/12/2023)

CHAPTER 18.520 Significant Tree Groves

§ 18.520.010. Purpose.

The purpose of this chapter is to implement the comprehensive plan goals and policies related to urban forestry and provide flexible standards to incentivize the preservation of significant tree groves.

(Ord. 17-22 §2; Ord. 18-28 §1)

§ 18.520.020. Applicability.

This chapter applies to all sites that contain more than 10,000 square feet of tree canopy within a mapped significant tree grove, as shown on the City of Tigard Significant Tree Grove Map, but not within any sensitive lands identified in Paragraphs 18.510.010.G.1 through 3.

(Ord. 17-22 §2; Ord. 18-28 §1)

§ 18.520.030. General Provisions.

- A. An applicant may request to use one or more of the flexible standards provided by this chapter when submitting a land use application for development. A separate adjustment application is not required.
- B. The standards in this chapter govern in the event of a conflict, except where the approval authority determines that application of a flexible standard would endanger public health, safety, or welfare.

(Ord. 18-28 §1)

§ 18.520.040. Approval Process.

The request to use flexible standards will be processed through the review procedure associated with the specific land use application submitted.

(Ord. 18-28 §1)

§ 18.520.050. Approval Criteria.

The approval authority must find that the request to use flexible standards is the least required to preserve the significant tree grove and an instrument or action acceptable to the city permanently preserves the significant tree grove, such as a conservation easement, open space tract, deed restriction, or dedication.

(Ord. 18-28 §1)

§ 18.520.060. Flexible Standards.

- A. Minimum residential density. The minimum density required for apartments, rowhouses, and small form residential may be reduced to preserve a significant tree grove. The amount of reduction in minimum density is calculated as provided in Section 18.40.130. Reduction of minimum density is allowed provided that:
 1. At least 50% of the significant tree grove's canopy within the development site is preserved; and

2. The project arborist or landscape architect certifies the preservation is such that the connectivity and viability of the remaining significant tree grove is maximized while balancing the significant tree grove preservation considerations in the Urban Forestry Manual.
- B. Residential density transfer. Up to 100% density transfer is allowed for apartments and small form residential from the preserved portion of a significant tree grove within a development site to the buildable area of the development site.
1. Density may be transferred provided that:
 - a. The standards in Table 18.520.1 are met with the preservation of the corresponding percent of the significant tree grove's canopy within the development site;
 - b. The project arborist or landscape architect certifies the preservation is such that the connectivity and viability of the remaining significant tree grove is maximized while balancing the significant tree grove preservation considerations in the Urban Forestry Manual; and
 - c. Maximum density for the net site area including the significant tree grove is not exceeded.
 2. The proposed development may include the following:
 - a. Zero lot line small form residential for the portion of the development site that receives the density transfer.
 - b. The following variations from the base zone development standards are allowed:
 - i. Up to 25% reduction of minimum lot width;
 - ii. Up to 10-foot minimum front setback;
 - iii. Up to 33% reduction of side and rear setbacks;
 - iv. Up to four-foot minimum garage setback; and
 - v. Up to 20% increase in maximum height.
 - c. When the portion of the development site that receives the density transfer abuts a developed residential zone with the same or lower density, the average area of abutting perimeter lots must be at least 75% of the minimum lot area of the applicable residential zone.

Table 18.520.1
Density Transfer for Preservation of Significant Tree Groves

Residential Zone(Small Form Residential Min. Lot Size)	Detached Sq. Ft. Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area	Attached Sq. Ft. Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area	Duplex Percent Tree Grove Canopy Preserved/Min. Lot or Unit Area	Multifamily Percent Tree Grove Canopy Preserved/Min. Unit Area
RES-A(20,000 sq ft per unit)	25-49%/15,000 sq ft 50-74%/10,000 sq ft 75-100%/5,000 sq ft	Allowed with 75% or greater tree grove canopy preservation/ 5,000 sq ft	Not Allowed	Not Allowed
RES-B(7,500 sq ft per unit)	25-49%/5,625 sq ft 50-74%/3,750 sq ft 75-100%/1,875 sq ft	Allowed with 75% or greater tree grove canopy preservation/ 1,875 sq ft	Allowed with 75% or greater tree grove canopy preservation/ 3,750 sq ft	Not Allowed
RES-C(5,000 sq ft per unit)	25-49%/3,750 sq ft 50-74%/2,500 sq ft 75-100%/1,250 sq ft	Allowed with 75% or greater tree grove canopy preservation/ 1,250 sq ft	Allowed with 75% or greater tree grove canopy preservation/ 2,500 sq ft	Not Allowed
RES-D(3,050 sq ft per unit)	Apartment and small form residential transfer allowed at the following densities: 25-49% tree grove canopy preservation/2,288 sq ft/unit 50-74% tree grove canopy preservation/1,525 sq ft/unit 75-100% tree grove canopy preservation/763 sq ft/unit			
RES-E(1,480 sq ft per unit)	Apartment and small form residential transfer allowed at the following densities: 25-49% tree grove canopy preservation/1,110 sq ft/unit 50-74% tree grove canopy preservation/5,200 sq ft/unit 75-100% tree grove canopy preservation/370 sq ft/unit			

C. Commercial development. Adjustments to commercial development standards in Table 18.320.1 of up to 50% reduction in minimum setbacks and up to 20 feet additional building height are allowed provided that:

1. At least 50% of a significant tree grove's canopy within a development site is preserved;
2. The project arborist or landscape architect certifies the preservation is such that the connectivity and viability of the remaining significant tree grove is maximized while balancing the significant tree grove preservation considerations in the Urban Forestry

Manual;

3. Applicable screening standards in Section 18.420.050 are met;
 4. Maximum floor area ratio is not exceeded in the MUE zone as provided in Table 18.320.1; and
 5. Any setback reduction is not adjacent to a residential zone.
- D. Industrial development. Adjustments to development standards in industrial zones in Table 18.330.1 of up to 50% reduction in minimum setbacks and up to 20 feet additional building height are allowed provided that:
1. At least 50% of a significant tree grove's canopy within a development site is preserved;
 2. The project arborist or landscape architect certifies the preservation is such that the connectivity and viability of the remaining significant tree grove is maximized while balancing the significant tree grove preservation considerations in the Urban Forestry Manual;
 3. Applicable screening standards in Section 18.420.050 are met; and
 4. Any setback reduction is not adjacent to a residential zone.
- E. Residential development. The requirement for 15% effective tree canopy cover per lot or tract in the R-1, R-2, R-3.5, R-4.5, and R-7 zones is not required provided that:
1. At least 50% of a significant tree grove's canopy within a development site is preserved;
 2. The project arborist or landscape architect certifies the preservation is such that the connectivity and viability of the remaining significant tree grove is maximized while balancing the significant tree grove preservation considerations in the Urban Forestry Manual; and
 3. The applicable standard percent effective tree canopy cover in Section 10, part 3, item N of the Urban Forestry Manual will be provided for the overall development site (excluding streets).
- F. Public improvements. Adjustments to Chapter 18.910, Improvement Standards, and Paragraph 18.420.060.B.5, which contains street tree standards, are allowed subject to city engineer approval provided that the adjustment will provide preservation and help maximize the connectivity and viability of a significant tree grove while balancing the significant tree grove preservation considerations in the Urban Forestry Manual.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

Part 18.600
PLAN DISTRICTS

CHAPTER 18.610
Plan Districts

§ 18.610.010. Purpose.

Plan districts address concerns unique to an area when other zoning mechanisms cannot achieve the desired results. An area may be unique based on natural, economic, or historic attributes; be subject to problems from rapid or severe transitions of land use; or contain public facilities that require specific land use regulations for their efficient operation. Plan districts provide a means to modify zoning regulations for specific areas defined in special plans or studies. Each plan district has its own nontransferable set of regulations. This contrasts with base zone provisions that are intended to be applicable in large areas or in more than one area.

(Ord. 17-22 §2)

§ 18.610.020. Scope of Plan Districts.

Plan district regulations may be applied in conjunction with a base zone. The plan district provisions may modify any portion of the regulations of the base zone or other regulations of this title. The provisions may apply additional requirements or allow exceptions to general regulations.

(Ord. 17-22 §2)

§ 18.610.030. Relationship to Other Regulations.

When there is a conflict between the plan district regulations and applicable base zone regulations or other provisions this title, the plan district regulations govern, except where specifically provided otherwise. The specific regulations of the base zone or other provisions of this title apply unless the plan district provides other regulations for the same specific topic.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.610.040. Approval Process.

A plan district is established through a Legislative procedure, as provided in Section 18.710.120.
(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.610.050. Approval Criteria.

A plan district may be established when all of the following are met:

- A. The area proposed for the plan district has special characteristics or problems of a natural, economic, historic, public facility, transitional land use, or development nature that are not common to other areas of the city;
- B. Existing base zone provisions are inadequate to achieve a desired public benefit or to address an identified problem in the area;
- C. The proposed plan district and regulations are the result of a study or plan documenting the special characteristics or problems of the area and how a plan district will best address

relevant issues; and

D. The regulations of the plan district are in compliance with the comprehensive plan.
(Ord. 17-22 §2)

§ 18.610.060. Review.

Plan districts and their regulations are reviewed periodically to determine whether they are still needed, should be continued, or amended. Plan districts and their regulations are reviewed as part of the process for the update of the comprehensive plan.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.610.070. Plan District Maps.

The boundaries of each plan district established are shown on maps located in each plan district chapter. In addition, plan district boundaries are identified on the official zoning map.

(Ord. 17-22 §2; Ord. 18-23 §2)

**CHAPTER 18.620
Bridgeport Village Plan District**

§ 18.620.010. Purpose.

The purpose of this chapter is to recognize and accommodate the changing commercial and residential marketplace by allowing commercial and residential mixed uses in the approximately 7-acre portion of the Bridgeport Village site that is within the City of Tigard in the Mixed-Use Commercial (MUC-1) zone. Retail, office, business services, and personal services are emphasized, but residential uses are also allowed. A second purpose is to recognize that when developed under certain regulations, commercial and residential uses may be compatible in the MUC-1 zone.

(Ord. 17-22 §2; Ord. 18-28 §1)

§ 18.620.020. Applicability.

- A. Applicability. The regulations of this chapter apply to the Bridgeport Village Plan District. The boundaries of the plan district are shown on Map 18.620.A, which is located at the end of this chapter, and on the official zoning map, and described by the intergovernmental agreement between the City of Tigard and City of Tualatin, dated March 26, 2002.
- B. Conflicting standards. In addition to other applicable standards of this title, the following standards apply to all development located within the Bridgeport Village Plan District within the MUC-1 zone. The standards and requirements in this chapter govern in the event of a conflict.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.620.030. Uses.

Allowed, restricted, conditional, and prohibited uses within the MUC-1 zone are provided in Table 18.120.1.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.620.040. Development Standards.

- A. Compliance. Development must comply with applicable development standards, except where adjustments are granted in compliance with the intergovernmental agreement between Tigard and Tualatin.
- B. Development standards.
 1. Minimum lot area: None.
 2. Minimum lot width: None
 3. Minimum building setbacks: None.
 4. Except as determined in the architectural review process, maximum building setbacks are:
 - a. Commercial: 10 feet front and street side; zero interior side and rear, except when the side and rear abut a residential zone it is 20 feet.

- b. Residential: 20 feet front; zero rear and interior side, except when the side and rear abut a residential zone it is 20 feet; 20 feet street side.
5. Minimum building height: Except for theaters and cinemas, which can be one story, 20 feet.
6. Maximum building height: 70 feet.
7. Maximum lot coverage: 90%.
8. Minimum landscape area: 10%.
9. Density and floor area ratio. For the purposes of required floor area ratio (FAR) and residential densities, lot area is the net development area as determined using the process provided in Section 18.40.020.
 - a. The minimum FAR for nonresidential development and mixed-use development that includes a residential component is 0.50. In mixed-use developments, residential floor area is included in the calculations of FAR.
 - b. The minimum density for residential-only developments is 25 dwelling units per net acre. There is no FAR for residential-only developments.
 - c. The maximum density for residential-only developments is 50 dwelling units per net acre.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.620.050. Signs.

Signs. In addition to the requirements of Chapter 18.435, Signs, the following standards must be met:

- A. Residential-only developments within the MUC-1 zone must meet the sign requirements for the residential zones, Subsection 18.435.130.A; nonresidential development within the MUC-1 zone must meet the requirements of the C-P zone, Subsection 18.435.130.C. Sign area increases are prohibited.
- B. The maximum height limit for all signs except wall signs is 10 feet. Wall signs are not allowed to extend above the roof line of the wall on which the signs are located. Height increases are not allowed.
- C. Freestanding signs are prohibited within the required S-4 screening.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.620.060. Access.

Except as provided below, all lots must have access to the public right-of-way in compliance with Chapter 18.920, Access, Egress, and Circulation. Such access may be provided by lot frontage on a public street or by creating uninterrupted vehicle and pedestrian access between the subject lot and the public street.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.620.070. Design Standards.

- A. Purpose. Design principles. Design standards for public street improvements for the Bridgeport Village Plan District address several important guiding principles, including creating a high-quality mixed-use area, providing a convenient pedestrian and bikeway system, and utilizing streetscape to create a high-quality image for the area.
- B. Applicability. New development, including remodeling and renovation projects resulting in other than small form residential development, is expected to contribute to the character and quality of the area. In addition to meeting the design standards described below and other development standards required by the development and building codes, developments will be required to dedicate and improve public streets, connect to public facilities such as sanitary sewer, water, and storm drainage, and participate in funding future transportation and public improvement projects within and surrounding the Bridgeport Village Plan District.
- C. Site design standards. Development must meet the following site design standards:
1. Building placement. Buildings must occupy a minimum of 50% of arterial and collector street frontages. Buildings must be located at public street intersections on arterials and collectors.
 2. Building setbacks must comply with Subsection 18.620.040.B.
 3. Front setback design. For setbacks greater than zero feet, landscaping, an arcade, or a hard-surfaced expansion of the sidewalk must be provided between a structure and a public street or accessway. If a building abuts more than one street, the required improvements must be provided on all streets. Landscaping must comply with the applicable standard in Paragraph 18.620.070.C.5. Hard-surfaced areas must be constructed with scored concrete or modular paving materials. Benches and other street furnishings are required. These areas may contribute to the minimum landscape area standard.
 4. Walkway connection to building entrances. A walkway connection is required between a building's entrance and a public street or accessway. The walkway must be at least six feet wide and paved with scored concrete or modular paving materials. Building entrances at a corner near a public street intersection are required. These areas may contribute to the minimum landscape area standard.
 5. Parking location and landscape design. Parking for buildings or phases adjacent to public street rights-of-way must be located to the side or rear of newly constructed buildings. When buildings or phases are adjacent to more than one public street, primary streets will be identified by the city where this requirement applies. If located on the side, parking is limited to 50% of the street frontage. When abutting public streets, parking must be screened to the S-4 standard as provided in Table 18.420.2. All other site landscaping must be planted to the L-2 standard.
- D. Building design standards. Nonresidential buildings must comply with the standards below. Residential-only and mixed-use buildings where at least 50.1% of the floor area of the building is residential must comply with Section 18.620.080.
1. First-story windows. All street-facing facades within the required building setback along public streets must include windows, doors, or display areas on a minimum of 50% of the first-story facade area. The first-story facade area is measured from three

feet above grade to nine feet above grade the entire length of the street-facing facade. Up to 50% of the first-story window requirement may be met on an adjoining facade provided all of the requirement is located at a building corner.

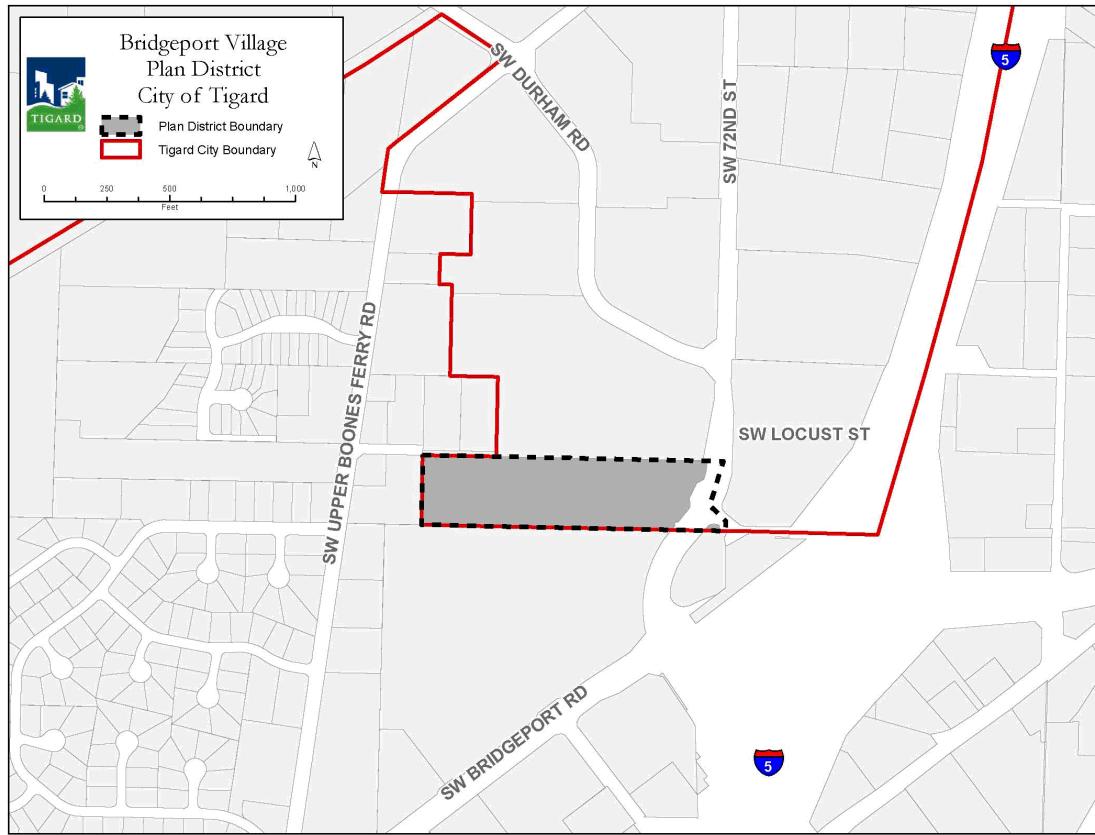
2. Building facades. Facades that face a public street must provide at least one of the following features at least every 50 feet:
 - a. A variation in building materials;
 - b. A building off-set of at least one foot;
 - c. A wall area that is entirely separated from other wall areas by a projection, such as an arcade;
 - d. By other design features that reflect the building's structural system; or
 - e. Buildings more than 300 feet in length along streets must provide a pedestrian connection between or through the building.
3. Weather protection. Weather protection for pedestrians, such as awnings, canopies, and arcades, must be provided at building entrances. Weather protection is encouraged along building frontages abutting a public sidewalk or a hard-surfaced expansion of a sidewalk, and along building frontages between a building entrance and a public street or accessway.
4. Building materials. Plain concrete block, plain concrete, corrugated metal, plywood, sheet press board or vinyl siding may not be used as exterior finish materials. Foundation material may be plain concrete or plain concrete block where the foundation material is not revealed for more than two feet.
5. Roofs and roof lines. Except in the case of a building entrance feature, roofs must be designed as an extension of the primary materials used for the building and should respect the building's structural system and architectural style. False fronts and false roofs are prohibited.
6. Roof-mounted equipment. Roof-mounted equipment must be screened to the S-1 standard as provided in Section 18.420.050. Satellite dishes and other communication equipment must be set back or positioned on a roof so that exposure from adjacent public streets is minimized.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.620.080. Design Compatibility Standards.

- A. Front facades. All primary first-story common entrances or individual entrances of street-facing dwelling units must be oriented to the street, not to the interior or to a parking lot. The front facade of large structures must be divided into smaller areas or planes of 500 square feet or less. Projecting features such as porches, balconies, bays, dormer windows, and roof pediments are encouraged for street-facing structures to create visual interest.
- B. Main entrance. Primary structures must be oriented with their main entrance facing the street upon which the development fronts. If the site is on a corner, it may have its main entrance oriented to either street or at the corner.

- C. Unit definition. Each dwelling unit must be emphasized by including a roof dormer or bay windows on the street-facing facade, or by providing a roof gable or porch that faces the street. First-story dwelling units must include porches that are at least 48 square feet in area with no dimension less than 6 feet.
- D. Roof lines. Roof-line offsets must be provided at intervals of 40 feet or less to create variety in the massing of structures and to relieve the effect of a single, long roof. Roof line offsets must be a minimum 4-foot variation either vertically from the gutter line or horizontally.
- E. Trim detail. Trim must be used to mark all building roof lines, porches, windows and doors that are on a primary structure's street-facing facades.
- F. Mechanical equipment. Roof-mounted mechanical equipment, other than vents or ventilators, must be screened to the S-1 standard as provided in Section 18.420.050. Screening must be integrated with exterior building design.
- G. Parking. Parking and loading areas may not be located between the primary structures and the street upon which the structure fronts. If there is no alley and motor vehicle access is from the street, parking must be provided:
 - 1. In a garage that is attached to the primary structure;
 - 2. In a detached accessory structure located at least 50 feet from the front property line; or
 - 3. In a parking area at the side or rear of the site.
- H. Pedestrian circulation. At least one pedestrian connection to an abutting street frontage must be provided for each 200 linear feet of street frontage. The on-site pedestrian circulation system must be continuous and connect the ground-level entrances of primary structures to the following:
 - 1. Streets abutting the site;
 - 2. Common buildings such as laundry and recreation facilities;
 - 3. Parking areas;
 - 4. Shared open space and play areas;
 - 5. Abutting transit stops; and
 - 6. Any pedestrian amenity such as plazas, resting areas, and viewpoints.

Map 18.620.A: Bridgeport Village Plan District Boundary

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

**CHAPTER 18.630
Durham Advanced Wastewater Treatment Facility Plan District**

§ 18.630.010. Purpose.

- A. Purpose. The purpose of this chapter is to regulate the development of Clean Water Services (CWS) Durham Advanced Wastewater Treatment Facility (Durham facility) in such a manner that the Durham facility is able to grow and adapt to new regulatory and environmental conditions, while avoiding or mitigating negative off-site impacts to adjacent land uses. The Durham Advanced Wastewater Treatment Facility Plan District is intended to provide land use regulations that accomplish the following:
1. Allow expansion of the Durham facility to accommodate regional urban growth;
 2. Allow modification and adaptation of the Durham facility to satisfy changes in environmental or regulatory standards and to incorporate new technology and methods in wastewater treatment; waste handling; processing; and wastewater, energy, and nutrient recovery;
 3. Require avoidance, management, or mitigation of negative off-site impacts on land uses adjacent to the Durham facility, recognizing that certain impacts are inherent in the operation of a regional wastewater treatment facility and that such impacts should be balanced with the overall community benefit such facilities provide;
 4. Regulate land uses, site and building design, and environmental impacts from new development within the plan district, taking into account the specialized operational requirements and the regional service nature of the Durham facility;
 5. Address transportation system impacts from future changes at the Durham facility;
 6. Establish specific land use and permitting processes for the Durham facility that will allow permit issuance on a timely basis; and
 7. Ensure Clean Water Services is able to comply with state and federal regulations pertaining to wastewater treatment and to utilize the most efficient and timely technology available.

(Ord. 17-22 §2)

§ 18.630.020. Applicability.

- A. Applicability. The regulations of this chapter apply to the Durham Advanced Wastewater Treatment Facility Plan District. The boundaries of the plan district and the subdistricts are shown on Map 18.630.A, which is located at the end of this chapter, and on the official zoning map.
- B. Subdistricts. The three sub-areas identified on Map 18.630.A and described below have different land use and development regulations, as provided in Sections 18.630.030 through 18.630.100.
1. Administrative subdistrict. This area is primarily intended to accommodate the administrative offices, laboratories, and other support functions of the treatment plant in an office park setting that is compatible with proximate residential and civic land uses to the north, east, and west. The subdistrict also contains open space features that

are intended to provide a buffer between wastewater treatment operations to the south and impact sensitive land uses and transportation facilities to the north.

2. Operations subdistrict. This area is intended for the continued operation and expansion of the wastewater treatment facilities and accessory land uses. Wastewater treatment processes and accessory resource extraction and processing activities are expected and allowed by right in this area within an industrial setting.
3. Floodplain subdistrict. This area is within the special flood hazard area and is constrained by the presence of locally significant inventoried wetlands, buffers, and vegetated corridors. Activities with minimal disturbance such as wastewater conveyance facilities and Community Services uses are allowed within this area.

(Ord. 17-22 §2)

§ 18.630.030. Uses.

General Provisions. A list of allowed, restricted, conditional, and prohibited uses in each subdistrict is provided in Table 18.630.1. The use categories in Chapter 18.60, Use Categories, that are not listed in Table 18.630.1, are not allowed within the plan district. Unanticipated or omitted uses are subject to the provisions of Section 18.60.030.

- A. Allowed (A). Uses that are allowed subject to all of the applicable provisions of this title.
- B. Restricted (R). Uses that are allowed provided they are in compliance with special requirements, exceptions, or restrictions.
- C. Conditional (C). Uses that require the approval of Hearings Officer using discretionary criteria. The approval process and criteria are as provided in Chapter 18.740, Conditional Uses.
- D. Prohibited (P). Uses that are not allowed under any circumstance.

Table 18.630.1
Use Table

Use Category	Subdistricts		
	<i>Administrative Subdistrict</i>	<i>Operations Subdistrict</i>	<i>Floodplain Subdistrict</i>
Waste Related	P	A	P
Office	A	A	P
Basic Utilities	A	A	A
Transportation/ Utility Corridors	A	A	A
Industrial Services	C[1]	A	P
General Industrial	P	R[2]	P
Community Services	A	A	A

**Table 18.630.1
Use Table**

Use Category	Subdistricts		
	<i>Administrative Subdistrict</i>	<i>Operations Subdistrict</i>	<i>Floodplain Subdistrict</i>
Wireless Communication Facilities	A	A	A

Notes:

A=Allowed R=Restricted C=Conditional Use P=Prohibited

- [1] Restricted to support facilities that are clearly accessory to and support the wastewater treatment facility and conducted entirely indoors with the exception of parking. Support facilities are allowed conditionally within the administrative subdistrict.
- [2] Restricted to industrial uses that are clearly accessory to the wastewater treatment facility and utilizing raw materials recovered, diverted, or produced by the collection and treatment of wastewater.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.630.040. Development Standards.

- A. Setbacks. Development must comply with the following standards:
 - 1. Development must maintain a 50-foot setback from the perimeter of the plan district, except as provided in Paragraphs 18.630.040.A.2 through 5.
 - 2. Development within the administrative subdistrict is subject to a setback from Durham Road and 85th Avenue rights-of-way as measured from the southeastern edge and easternmost point of the main ornamental fountain, as shown in Map 18.630.B.
 - 3. Development located entirely underground is exempted from setback requirements.
 - 4. Venting facilities related to odor control systems are allowed within the required setback area provided they are flush or nearly flush with finished grade; integrate with existing landscaping through the use of a cover composed of gravel, sand, bark, living groundcover, or similar materials; and comply with all other requirements of this title including off-site impact standards. Ancillary equipment servicing the venting facilities, such as irrigation control panels and enclosed fans, are allowed provided they are low profile or flush with the ground, designed to integrate with existing landscaping, and comply with all other requirements of this title including off-site impact standard.
 - 5. New structures fronting a public road must maintain a setback of not less than 0.5 of the projected ultimate road width as measured from centerline of the adjacent roadway, utilizing street width provided in Section 18.910.030.

- B. Height requirements. Development must comply with the following requirements:
1. The maximum height is 45 feet in the administrative subdistrict.
 2. The maximum height is 50 feet in the operations subdistrict.
 3. The maximum height is 30 feet in the floodplain subdistrict.
- C. Lot coverage and landscaping. Development is subject to the following lot coverage and landscaping standards: For development within the administrative and operations subdistricts the maximum lot coverage is 75 percent and the minimum landscape area is 25 percent.
- D. Accessory structures. Accessory structures must comply with the following standards:
1. Accessory structures are allowed and must meet all applicable development standards.
 2. Where freestanding private communication and utility facilities that are accessory to an allowed use and not subject to the provisions of Chapter 18.450, Wireless Communication Facilities, are proposed, such facilities must be set back from all property lines a distance equal to or greater than the height of the facility. Freestanding communication or utility facilities include, but are not limited to, wind turbines and communication towers, antennas, and receivers.
- E. Signs. Signage is subject to the same regulations as the I-P zone.
- F. Lot size. Development must comply with the following standards:
1. There is no minimum lot size.
 2. The minimum lot width is 50 feet.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.630.050. Landscaping and Screening Standards.

All new development must comply with the required landscaping and screening standards as provided in Sections 18.420.040 and 18.420.050, with the following exceptions:

- A. Development in the administrative subdistrict must provide the following screening along the eastern boundary of the subdistrict. Screening is not required along the northern and southern boundaries of the subdistrict.
1. A screen that is 20 feet in width, planted with a six-foot hedge, trees spaced at a minimum of 15 feet and maximum of 40 feet; and shrubs;
 2. A screen that is 15 feet in width with a six-foot sight-obscuring fence, and planted with trees spaced at a minimum of 15 feet and maximum of 40 feet, and shrubs; or
 3. A screen that is 10 feet in width, planted with a six-foot wall, trees spaced at a minimum of 15 feet and maximum of 40 feet; and shrubs.
- B. Development in the operations subdistrict is subject to a 40-foot wide screen with a six-foot hedge, sight-obscuring fence, or wall and be planted with trees, spaced at a minimum of 15 feet and maximum of 40 feet; and shrubs along all boundaries of the subdistrict, with the

exception of the boundary between the operations subdistrict and administrative subdistrict.

- C. The floodplain subdistrict is subject to a 10-foot wide screen planted with grass or living groundcover.
- D. In lieu of these standards, a detailed landscaping and screening plan may be submitted for the Director's approval as an alternative to the landscaping and screening standards, provided it affords the same degree of screening as required by this chapter.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.630.060. Connectivity Standards.

New development must comply with the requirements of Chapter 18.910, Improvement Standards, subject to the following exceptions:

- A. Development within the plan district is exempted from block standards, as provided in Section 18.910.040.
- B. New development must provide for an emergency vehicle access drive between 85th Avenue and the eastern terminus of Waverly Drive. The access drive must be improved with an all-weather fire-apparatus access road and key box access in compliance with Tualatin Valley Fire and Rescue Fire and Life Safety Requirements and the Oregon Fire Code.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.630.070. Off-Site Impact Standards.

- A. Purpose. The purpose of this section is to establish standards for negative off-site impacts resulting from noise, odor, and light generated within the boundaries of the plan district. The standards provide a measurable way to control and regulate the specified off-site impacts and protect the occupants and operators of land uses adjacent to the plan district.
- B. Exemptions. The off-site impact standards do not apply to machinery, equipment, facilities and operations that were on the site and in compliance with existing regulations at the effective date of this chapter, but do apply to new machinery, equipment, facilities, operations, and activities. Documentation is the responsibility of the proprietor of the use if there is any question about when equipment or land uses were brought to the site.
- C. Relationship to other regulations. The standards provided in this section do not supersede or replace regulations of the Department of Environmental Quality and any applicable county, state, and federal regulations.
- D. Noise standards. Development within the plan district must comply with the following standards:
 1. Statistical noise levels. Equipment, facilities, operations, or activities within the plan district may not produce sounds that exceed in any 1 hour the noise levels specified in Table 18.630.2, as measured at the plan district boundary or at the furthest boundary of adjacent industrially-zoned properties.
 2. Impulse sound. Equipment, facilities, operations, or activities within the plan district must not produce any sounds emitted for a duration of less than 1 second that exceed the sound pressure level of 100 dB between the hours of 7 a.m. and 10 p.m., or 80 dB

between the hours of 10 p.m. and 7 a.m. as measured at the plan district boundary or at the furthest boundary of adjacent industrially-zoned properties.

3. Measurement. Sound level instruments must conform to Section 6.02.420 of the Tigard Municipal Code.

Table 18.630.2
Noise Standards

Allowable Statistical Noise Levels, dBA[1]	7 AM – 10 PM	10 PM – 7 AM
L50	55	50
L10	60	55
L1	75	60

[1]

Lx – Noise level can be equaled or exceeded x percent of the time.

- E. Odor standards. Development within the plan district must comply with the following standards:

1. Equipment, facilities, operations, or activities must not generate off-site facility odors detectable at the following scentometer levels using the Nasal Ranger® field scentometer or equivalent device, as measured at the plan district boundary:
 - a. Any one instantaneous measurement of 7 or greater dilutions to threshold (D/T); or
 - b. Ten consecutive readings equal to or greater than 4 D/T occurring over a minimum 4-hour period, to a maximum 1-week period.
2. If development is found to be noncompliant with the odor standards provided in Paragraph 18.630.070.E.1, Clean Water Services (CWS) will be responsible for the following:
 - a. Every scentometer reading in excess of 4 D/T or greater must be tracked to the source of the odor by a trained and certified scentometer operator; and
 - b. If the source of the odor is found to originate from equipment, facilities, operations, or activities within the plan district, CWS must submit a report within 90 days of the notice of violation that identifies the cause of the off-site odor and the steps required to stop, reduce, or mitigate the odors.

- F. Glare standards. Glare sources must be hooded, shielded, or otherwise located to avoid direct or reflected illumination in excess of 0.5 foot candles, as measured at the plan district boundary or at the furthest boundary of adjacent industrially-zoned properties.

- G. Documentation. The following provisions apply at the time of development permit or a request for enforcement:

1. When reviewing a development permit, the city may accept an evaluation and explanation certified by a registered engineer or architect, as appropriate, that the

proposed development will meet the off-site impact standard or standards in question. The evaluation and explanation must provide a description of the use or activity, equipment, processes, and the mechanisms, or equipment used to avoid or mitigate off-site impacts.

2. If the city does not have the equipment or expertise to measure and evaluate a specific complaint regarding off-site impacts, it may request assistance from another agency or may contract with an independent expert to perform the necessary measurements. The city may accept measurements made by an independent expert hired by the controller or operator of the off-site impact source.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.630.080. Discretionary Review.

- A. Conditional uses. A use classified as a conditional use in Table 18.630.1 or meeting one or more of the following will be reviewed in compliance with Chapter 18.740, Conditional Uses.
 1. An increase in vehicular traffic to and from the site in excess of 100 vehicles per day;
 2. The opening of a new access way onto Durham Road, or the improvement of the existing access way onto Waverly Drive for other than emergency vehicle access.
- B. Development permits. Development not meeting the criteria of Subsection 18.630.080.A is exempted from site development review as provided in Chapter 18.780, Site Development Review. Review for compliance with applicable standards will be performed in conjunction with obtaining a development permit.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.630.090. Additional Standards for Conditional Uses Within the Administrative Subdistrict.

- A. Purpose. Conditional uses are allowed within the administrative subdistrict but have the potential to create unpleasant aesthetic impacts to nearby land uses and travelers upon Durham Road and Hall Boulevard. These standards are intended to reduce off-site impacts and ensure new development associated with these activities presents the appearance of a high-quality office campus regardless of the interior activity.
- B. Standards. Conditional uses within the administrative subdistrict are subject to the following:
 1. Outside storage. Outside storage of materials or equipment associated with a conditional use in the administrative subdistrict, other than incidental delivery and temporary staging of materials and equipment, is prohibited.
 2. First-story windows. All street-facing facades along public streets must include windows on a minimum of 50 percent of the first-story facade area. The first-story facade area is measured from 3 feet above grade to 9 feet above grade the entire length of the street-facing facade. Glazing covered with applied window film will not be considered in the calculation to meet this standard.
 3. Building facades. Facades that face a public street and extend more than 50 feet must

provide at least one of the following features:

- a. Variation in building materials;
 - b. A building off-set of at least 1 foot;
 - c. A wall area that is entirely separated from other wall areas by a projection, such as an arcade; or
 - d. By other design features that reflect the building's structural system.
4. Building materials. Plain concrete block, plain concrete, corrugated metal, plywood, sheet press board, fiber cement products, or vinyl siding are prohibited exterior finish materials.
 5. Roofs. Rooflines must be designed as an extension of the primary materials used for the building and should respect the building's structural system and architectural style.
 6. All roof-mounted equipment must be screened to the S-1 standard as provided in Section 18.420.050. Solar heating and photovoltaic panels are exempted from this standard.

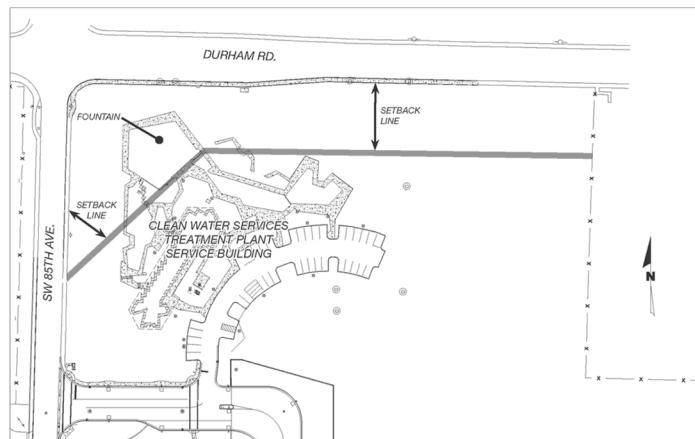
(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

§ 18.630.100. Temporary Off-Site Impact Permit.

- A. Intent. Specific permits may be granted as deemed necessary to allow activities that protect the public health and welfare, and where strict compliance with noise, odor, or light standards may be inappropriate because of special circumstances that render strict compliance unreasonable, impractical, or would result in the reduction or cessation of wastewater treatment.
- B. Approval process. Temporary off-site impact permits to noise, odor, or light standards are processed through a Type I procedure as provided in Section 18.710.050, using approval criteria in Subsection 18.630.100.D.
- C. Exceptions. Responses to an unexpected failure of a critical waste treatment process are exempted from the requirement for a temporary off-site impact permit for up to 3 business days, whereupon the facility operator must submit a complete application for a temporary off-site impact permit.
- D. Approval criteria. The approval authority will approve or approve with conditions an application for a temporary off-site impact permit when all of the following are met:
 1. The strict application of the noise, odor, or light standards as provided in Section 18.630.070 is unreasonable, impractical, or threatens public health;
 2. A demonstration that consideration for impact sensitive land uses and appropriate mitigation measures have been incorporated into the request;
 3. A public outreach plan will be implemented, including a 24-hour telephone contact number for information or to lodge complaints about the project; and
 4. The off-site impact permit is limited in time and scope.

Map 18.630.A: Plan District Boundaries and Subdistricts

Map 18.630.B: Setback Line from Durham Road Durham Facility Plan District



(Ord. 17-22 §2; Ord. 18-23 §2)

CHAPTER 18.640 River Terrace Plan District

§ 18.640.010. Purpose.

The River Terrace Community Plan provides for a variety of land uses and residential densities consistent with the city's desire to create a community of great neighborhoods that includes housing, neighborhood-scale commercial businesses, schools, parks, and recreational opportunities. The purpose of the River Terrace Plan District is to implement the adopted River Terrace Community Plan, River Terrace Funding Strategy, and associated infrastructure master plans for water, sewer, stormwater, parks, and transportation. The titles of these plans and the numbers of their adopting ordinances and resolutions are as follows:

- River Terrace Community Plan (Ordinance 14-15).
- River Terrace Transportation System Plan Addendum (Ordinance 14-16).
- River Terrace Sanitary Sewer Master Plan Addendum (Resolution 14-25).
- River Terrace Water System Master Plan Addendum (Resolution 14-35).
- River Terrace Stormwater Master Plan (Resolution 14-42).
- River Terrace Park System Master Plan Addendum (Resolution 14-65).
- River Terrace Funding Strategy (Resolution 14-66).

This chapter ensures that public facilities are adequate to serve the anticipated levels of development throughout River Terrace by:

- Implementing the River Terrace Community Plan and associated infrastructure master plans.
- Facilitating the transition of River Terrace from rural to urban land use through the timely, orderly, and efficient provision of public facilities.
- Ensuring that public facilities are available in advance of or concurrent with development.
- Safeguarding the River Terrace community's health, safety, and welfare.

This chapter also implements those unique aspects of the River Terrace Community Plan and associated infrastructure master plans related to commercial and residential design, transportation facilities, and park and trail development.

- The commercial area is envisioned as a vibrant mixed-use center with pedestrian-scale street and building amenities and high-quality design features.
- The transportation system is designed as a network of multi-modal streets that connects residents to trails, schools, parks, and services. One that conforms to the rolling topography, builds upon and connects to existing streets in the area, and effectively balances safety, comfort, and mobility through thoughtful and location-specific street and intersection design.
- River Terrace Boulevard is designed to seamlessly integrate the River Terrace Trail into its design, provide safe and comfortable multi-modal travel options, and include high-quality pedestrian-scale design treatments that defines it as the neighborhood's signature street.
- Parks and trails are distributed throughout the area to provide a variety of convenient recreational opportunities for residents and visitors.

The statements in this section do not constitute distinct approval criteria, but they guide and inform the interpretation and application of the provisions in this chapter.

(Ord. 17-22 §2)

§ 18.640.020. Applicability.

The regulations of this chapter apply to the River Terrace Plan District. The boundaries of the plan district are shown on Map 18.640.A, which is located at the end of this chapter, and on the official zoning map. The standards and requirements in this chapter apply in addition to, and not in lieu of, all other applicable provisions of this title. Compliance with all applicable standards and requirements must be demonstrated in order to obtain development approval. The standards and requirements in this chapter govern in the event of a conflict.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.640.030. Provision of Adequate Public Facilities.

- A. Intent. The intent is to address the provision of the infrastructure systems necessary to benefit and serve all property in River Terrace as provided for in the River Terrace Community Plan, River Terrace Funding Strategy, and related infrastructure master plans, in light of the desire of property owners to commence preliminary development prior to full implementation of these plans and with the understanding that no development rights vest and no development approvals will be granted until the infrastructure systems are in place or assured.
- B. Approval standard. Land use applications for subdivisions, partitions, planned

developments, site development reviews, and conditional uses may be approved when the applicable standards in Subsection 18.640.030.E are met and when all of the following funding components of the River Terrace Funding Strategy have been adopted by the city and are in effect:

1. Transportation. A citywide transportation system development charge (SDC), a River Terrace transportation SDC, and a River Terrace transportation utility fee surcharge.
2. Sewer. A citywide utility fee surcharge.
3. Stormwater. A River Terrace stormwater utility fee surcharge.

C. Deferral of compliance.

1. The applicant may request to defer demonstrating compliance with one or more of the standards in Subsections 18.640.030.B and E as provided for below:
 - a. Preliminary plat. Deferral of compliance to final plat approval.
 - b. Planned development concept plan (without a land division proposal). Deferral of compliance to detailed development plan approval.
 - c. All other development applications. A condition of land use approval requiring demonstration of compliance no later than 180 days after approval or prior to submission of applications for building or public facility improvement permits, whichever occurs first.
2. Deferral of compliance as provided for in Paragraph 18.640.030.C.1 will be granted only if:
 - a. The applicant demonstrates that the approval standard will likely be met prior to filing an application for final plat or detailed development plan approval, or prior to expiration of the condition of approval described in Subparagraph 18.640.030.C.1.c. A determination by the approval authority that it is likely that the standard will be met is for the purposes of deferral only and in no way constitutes an assurance, guarantee, or other representation that may in any way be relied upon by the applicant; and
 - b. The applicant executes a written agreement prepared by the city acknowledging that the applicant has determined that deferral is to its benefit and that any and all actions taken pursuant to or in furtherance of the approval are at the applicant's sole and exclusive risk. The acknowledgement must waive, hold harmless and release the city, its officers, employees and agents for any and all claims for damages, including attorney fees, in any way arising from a denial for failure to demonstrate compliance with the standards in Subsection 18.640.030.B, without regard to fault. Nothing in this section precludes the applicant from seeking review of any land use decision in compliance with ORS Chapters 197, 215, 227, or equitable relief in a court of competent jurisdiction.

D. Exception.

1. An exception to one or more of the standards in Subsection 18.640.030.B may be obtained through a Type II procedure as provided in Section 18.710.060.

2. An exception will be granted only if the applicant:

- a. Demonstrates that the exception will not materially impact implementation of the River Terrace Sanitary Sewer Master Plan Addendum, River Terrace Water System Master Plan Addendum, River Terrace Stormwater Master Plan, River Terrace Transportation System Plan Addendum, and River Terrace Funding Strategy;
- b. Has proposed alternatives that ensure the applicant will provide its proportional share of the funding and construction of the facilities in a timely manner as identified in the River Terrace Funding Strategy and related infrastructure master plans. This may include, but is not limited to, a development agreement or reimbursement district;
- c. Agrees to disclose in writing to each purchaser of property for which a building permit has been obtained that the property may be subject to future utility fees or SDCs as described in the River Terrace Funding Strategy; and
- d. Executes an agreement prepared by the city agreeing that, if the new transportation SDCs described in Paragraph 18.640.030.B.1 are not in effect at the time of building permit issuance, the applicant must pay an amount equal to the SDC amount assumed in the River Terrace Funding Strategy. Credits will not be issued against this payment, but the city will issue a refund if:
 - i. The applicant made improvements to a facility that is eligible for credit under an adopted SDC credit, up to the amount of the credit,
 - ii. An SDC is adopted and paid by the applicant or its successor, up to the amount of such payment, or
 - iii. The city has not adopted the SDCs within 2 years of the effective date of this ordinance.

3. An exception will be granted only if the city finds that:

- a. There are adequate funding components in place for the infrastructure that is needed to serve the proposed development; and
- b. The exception will not materially impact implementation of the River Terrace Sanitary Sewer Master Plan Addendum, River Terrace Water System Master Plan Addendum, River Terrace Stormwater Master Plan, River Terrace Transportation System Plan Addendum, and River Terrace Funding Strategy; and
- c. The proposed alternative ensures that the applicant will provide its proportional share of the funding and construction of the facilities in a timely manner as identified in the River Terrace Funding Strategy and related infrastructure master plans.

E. Additional standards.

1. Infrastructure improvements for water, sewer, stormwater, and transportation systems, including but not limited to pump stations and trunk lines, must be located

and designed to serve the proposed development and not unduly or unnecessarily restrict the ability of any other property to develop in compliance with the applicable River Terrace infrastructure master plan. Infrastructure improvements are evaluated for conformance with this standard during the land use review process. The city will take into account the topography, size, and shape of the development site; the impact of the improvement on the development site; and the reasonableness of available options during its review. The applicant will not be required to reduce otherwise allowed density or obtain an adjustment to demonstrate compliance, but this standard may be considered in reviewing an adjustment application.

2. Infrastructure improvements for water, sewer, and stormwater must be placed in easements that are located, wherever possible, within existing or future rights-of-way. Easements and rights-of-way must extend through and to the edge of the development site at such locations that would maximize the function and availability of the easement and right-of-way to serve adjacent and surrounding properties. Easements and rights-of-way are evaluated for conformance with this standard during the land use review process. Dedications of easements and rights-of-way will be required as a condition of land use approval.
3. Development in water pressure zone 550 must either provide or demonstrate that there is sufficient water capacity in water pressure zone 550 to serve the proposed development, or that it can be served by another water pressure zone that has sufficient capacity, to the satisfaction of the City Engineer and Tualatin Valley Fire and Rescue during the land use review process.
4. Development in the north and south sewer sub-basins must demonstrate, where applicable, that there is sufficient pump station capacity and associated force mains to serve the proposed development, or that it can be served by other system improvements, to the satisfaction of the City Engineer and Clean Water Services during the land use review process.
5. If compliance with stormwater management standards is dependent upon an off-site conveyance system or an on- or off-site regional facility that has not yet been provided, the applicant may propose alternative or interim systems and facilities as described in the River Terrace Storm-water Master Plan.
 - a. Development approval for an interim facility will include a condition to decommission the interim facility, connect it to the permanent facility when it becomes available to serve the development, and assurance that adequate financial resources are available to decommission the interim facility when the permanent facility becomes available.
 - b. Development approval for an alternative or on- or off-site regional system or facility may include a condition to form a reimbursement district.
 - c. A stormwater management system or facility will not be approved if it will prevent or significantly impact the ability of other properties to implement and comply with the River Terrace Stormwater Master Plan or other applicable standards.

F. Other provisions.

1. Unless expressly authorized in a development approval, the imposition of private fees or any charge whatsoever that prohibits, restricts, or impairs adjacent or surrounding properties from accessing a public easement, facility, or service is prohibited.
2. For purposes of this section, an ordinance or resolution adopting an SDC, utility fee, or other charge to fund public facilities or services described in this section is deemed effective if it has taken effect and the time for any legal challenge has expired or any legal challenge has been finally decided.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.640.040. Approval Criteria.

- A. Preliminary plat approval criteria. In addition to the approval criteria in Sections 18.820.040 and 18.830.040, the following approval criteria apply to all partition and subdivision preliminary plat applications in River Terrace.
 1. Unless the applicable approval authority determines it is in the public interest to make modifications, the applicant must design and construct all streets, street extensions, and intersections to conform to:
 - a. The River Terrace Transportation System Plan Addendum;
 - b. The street spacing and connectivity standards of this chapter, this title, and Washington County, where applicable; and
 - c. The approved plats of subdivisions and maps of partitions of abutting properties, if any, as to width and general direction.
 2. The preliminary plat may not impede the future use or development of adjacent property in River Terrace not under the control or ownership of the applicant proposing the preliminary plat.
- B. Conditional use, planned development, and site development review approval criteria. In addition to the approval criteria in Sections 18.740.050, 18.770.060, and 18.780.050, the following approval criteria apply to all conditional use, planned development, and site development review applications in River Terrace.
 1. Unless the applicable approval authority determines it is in the public interest to make modifications, the applicant must design and construct all streets, street extensions, and intersections to conform to:
 - a. The River Terrace Transportation System Plan Addendum;
 - b. The street spacing and connectivity standards of this chapter, this title, and Washington County, where applicable; and
 - c. The approved plats of subdivisions and maps of partitions of abutting properties, if any, as to width and general direction.
 2. The development may not impede the future use or development of adjacent property in River Terrace not under the control or ownership of the applicant proposing the conditional use, planned development, residential, or commercial development.
- C. Conditions of approval. The approval authority may attach such conditions as are necessary

to comply with the River Terrace Community Plan, related infrastructure master plans, this chapter, and other applicable provisions of this title.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.640.050. Commercial Development Standards.

Development in the C-C zone is subject to the land use and development standards in Chapter 18.120, Commercial Zones, and Chapter 18.320, Commercial Zone Development Standards, except where an adjustment has been approved as provided by Chapter 18.715, Adjustments, or Subsection 18.640.660.D.

(Ord. 17-22 §2; Ord. 18-28 §1)

§ 18.640.060. River Terrace Boulevard Development Standards.

A. Applicability. The applicable development standards in this title apply to all development in River Terrace, except where an adjustment has been approved as provided by Chapter 18.715, Adjustments, or Subsection 18.640.060.D, and except as specified below.

The development standards in this section apply to the types of development listed below on lots abutting the River Terrace Boulevard right-of-way (ROW). The general location of the River Terrace Boulevard ROW is shown on Map 18.640.B, which is located at the end of this chapter. The Public Works Director, in consultation with the Community Development Director, will approve the final ROW alignment.

1. All small form residential and rowhouse development.
2. All apartment development.
3. All development subject to conditional use approval.

B. Building placement and design.

1. The following standards apply to all apartment, rowhouse, and small form residential development that is located on the side of the River Terrace Boulevard ROW opposite the trail corridor, except where an adjustment has been approved as provided in Subsection 18.640.060.D. The following standards apply in lieu of the design standards in Chapter 18.230, Apartments; Chapter 18.280, Rowhouses; and Chapter 18.290, Small Form Residential, only for the building facades specified below.

- a. Rowhouse and small form residential lots must abut the River Terrace Boulevard ROW with their front or side lot lines.
 - i. Lots with front lot lines abutting the River Terrace Boulevard ROW must meet all of the building design standards in Subsection 18.640.070.E.
 - ii. Lots with side lot lines abutting the River Terrace Boulevard ROW must meet the building design standards for articulation, eyes on the street, detailed design, and garages and carports in Paragraphs 18.640.070.E.1, 2, 4, and 5 for the facade that faces the River Terrace Boulevard ROW.
- b. Any building designed for residential use on an apartment development site that is located within 40 feet of the River Terrace Boulevard ROW must meet all of the building design standards in Subsection 18.640.070.E for the entire elevation

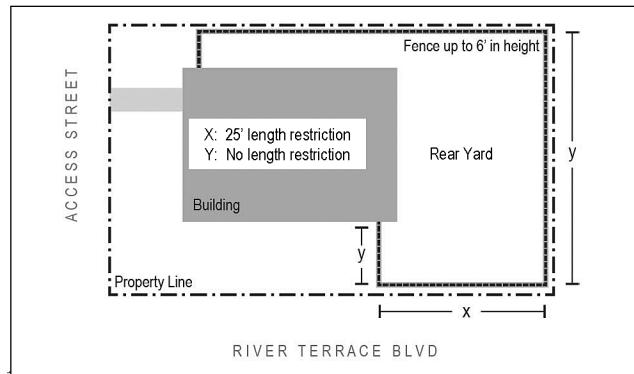
that faces the River Terrace Boulevard ROW, including those portions of the building facade that are more than 40 feet from the ROW.

- c. Apartment or rowhouse development sites may not include nonresidential buildings or uses (e.g., parking lots, detached garages or carports, and utility or storage buildings) within 40 feet of the River Terrace Boulevard ROW.
2. The following standards apply to all apartment, rowhouse, and small form residential development that is located on the side of the River Terrace Boulevard ROW with the trail corridor, except where an adjustment has been approved as provided in Subsection 18.640.060.D. The following standards apply in lieu of the design standards in Chapter 18.230, Apartments; Chapter 18.280, Rowhouses; and Chapter 18.290, Small Form Residential, only for the building facades specified below.
 - a. Rowhouse and small form residential lots must abut the River Terrace Boulevard ROW with their front, side, or rear lot lines.
 - i. Lots with front lot lines abutting the River Terrace Boulevard ROW must meet all of the building design standards in Subsection 18.640.070.E.
 - ii. Lots with side or rear lot lines abutting the River Terrace Boulevard ROW must meet the building design standards for articulation, eyes on the street, detailed design, and garages and carports in Paragraphs 18.640.070.E.1, 2, 4, and 5 for the facade that faces the River Terrace Boulevard ROW.
 - iii. All development must provide at least one walkway connection between the development and the trail a minimum of every 200 feet of River Terrace Boulevard ROW length, or as otherwise required by the City Engineer for connectivity purposes.
 - b. Any building designed for residential use on an apartment development site that is located within 40 feet of the River Terrace Boulevard ROW must meet all of the building design standards in Subsection 18.640.070.E for the entire elevation that faces the River Terrace Boulevard ROW, including those portions of the building facade that are more than 40 feet from the ROW.
 - c. Apartment or rowhouse development sites may not include nonresidential buildings or uses (e.g., parking lots, detached garages or carports, and utility or storage buildings) within 40 feet of the River Terrace Boulevard ROW.
3. The following standards apply to all development subject to conditional use approval that is located on either side of the River Terrace Boulevard ROW, except where an adjustment has been approved as provided in Subsection 18.640.060.D.
 - a. Any building that is located within 40 feet of the River Terrace Boulevard ROW must meet all of the building design standards in Subsection 18.640.070.E for the entire elevation that faces the River Terrace Boulevard ROW, including those portions of the building facade that may be further than 40 feet from the ROW, or as otherwise determined by the approval authority through the conditional use review process.
 - b. Any landscape element or structure, including an accessory structure or fence, that is located in a setback abutting the River Terrace Boulevard ROW must be

located and designed to support and reinforce a positive pedestrian streetscape experience.

- c. Conditional use development located on the side of the River Terrace Boulevard ROW with the trail corridor must provide at least one walkway connection between the development and the trail a minimum of every 200 feet of River Terrace Boulevard ROW length, or as otherwise determined by the approval authority through the conditional use review process.
 - d. Conditional use development may not include parking lots within 40 feet of the River Terrace Boulevard ROW.
4. Direct individual access to River Terrace Boulevard from rowhouse or small form residential development sites is not allowed along the River Terrace Boulevard ROW, except where an adjustment has been approved as provided in Subsection 18.640.060.D. Direct access to River Terrace Boulevard from apartment, conditional use, and commercial development sites are allowed where no other practicable alternatives exist. If direct access is allowed by the city through the site development or conditional use review process, the applicant is required to mitigate for any safety or traffic management impacts identified by the City Engineer. This may include, but is not limited to, the construction of an on-site vehicle turnaround to eliminate the need for any vehicle turning or backing movements in the public right-of-way.
 5. Fences, walls, hedges, or any combination thereof, such as a fence on top of a retaining wall, over three feet in height are not allowed in any front, side, or rear setback that lies between any apartment, rowhouse, or small form residential development site and the River Terrace Boulevard ROW, except as allowed below or where an adjustment has been approved as provided in Subsection 18.640.060.D. Unstained wood, unfaced concrete masonry units (CMU), and chain link fencing are prohibited, except as required for wetlands or other sensitive areas.
 - a. Fences or walls that are an integral part of an entrance, such as on a porch or stoop, are allowed subject to the applicable setback standards.
 - b. Rowhouse or small form residential development sites with side lot lines abutting the River Terrace Boulevard ROW may have a fence, wall, or hedge up to six feet in height and 25 feet in length along the side lot line. Additionally, a fence, wall, or hedge up to six feet in height may be of any length along the rear lot line and the side lot line opposite the River Terrace Boulevard ROW. An illustration of this fence allowance is shown in Figure 18.640.1.

Figure 18.640.1 Fence Allowance for Side Lot Lines Abutting River Terrace Boulevard



- C. Density bonus. In order to help offset the land and development costs associated with the construction of River Terrace Boulevard, residential development sites abutting River Terrace Boulevard ROW that are not proposing a planned development may choose to propose smaller and narrower lots along River Terrace Boulevard in compliance with Table 18.640.1. The reduced lot sizes and lot areas per dwelling unit that are described below are used to calculate the maximum and minimum number of residential units allowed in compliance with Subsections 18.40.130.A and B. This density bonus only applies to those proposed residential lots within a subdivision that will have a front, side, or rear lot line abutting the River Terrace Boulevard ROW. All other proposed lots within the subdivision are subject to the applicable minimum lot size and width standards.

Table 18.640.1
Reduced Minimum Lot Size and Width for Residential Lots Abutting River Terrace Boulevard

Base Zone	Minimum Lot Size	Minimum Lot Width
<i>RES-B Zone</i>		
Small form residential lots	4,500 sf	40 ft
<i>RES-C Zone</i>		
Small form residential lots	3,500 sf	35 ft
Rowhouse lots	2,500 sf [1]	25 ft
<i>RES-D Zone</i>		
Apartment lots	2,000 sf [1]	NA
Small form residential and rowhouse lots	2,500 sf [1]	NA

Notes:

[1] Minimum lot area per dwelling unit for apartment and rowhouse developments

- D. Adjustments. An application for an adjustment is processed through a Type II procedure as provided in Section 18.710.060, using approval criteria in Section 18.715.050.A. The

applicant must also demonstrate that all of the following are met:

1. The standard cannot be met due to:
 - a. Topography or other natural constraints associated with the specific development site; or
 - b. Public safety concerns or other legitimate considerations associated with the specific use.
2. The proposed design provides safe and convenient vehicle and pedestrian connections to River Terrace Boulevard.
3. If fences or walls, including retaining walls, over three feet in height are proposed, they are constructed of high-quality materials including, but not limited to, brick, stone, or wrought iron. Unstained wood, unfaced concrete masonry units (CMU), and chain link fencing are prohibited, except as required for wetlands or other sensitive areas.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.640.070. Planned Developments.

The requirements of Chapter 18.770, Planned Developments, apply to all planned developments in River Terrace, except as modified below.

- A. Density calculation. To encourage development that is consistent with the design concept for River Terrace Boulevard, the River Terrace Community Plan, and the building design standards in this chapter, planned developments in River Terrace may limit the land dedicated for public or private rights-of-way, including tracts for vehicle access, to 20% of gross site acreage for the purpose of calculating net development area and density.
- B. Housing types. In addition to Paragraph 18.770.030.I.2, all housing types may be allowed in the C-C zone where appropriately located, designed, and scaled. Any proposed housing must meet the applicable standards of this chapter and the applicable housing type chapter in 18.200 Residential Development Standards, except as adjusted through the planned development approval process.
- C. Common open space. A minimum of 20% of gross site area is required as common open space. Common open space may not contain sensitive lands. The following alternative open space and development enhancements may be provided in lieu of meeting the 20% open space standard. These alternatives are intended to provide the community with benefits that are consistent with the overall development vision for River Terrace as described in the River Terrace Community Plan and River Terrace Park System Master Plan Addendum.
 1. The development must provide parks, trails, or open space that:
 - a. Meets a need for neighborhood parks, linear parks, open space, or trails that is identified in the River Terrace Park System Master Plan Addendum with respect to both location and the plan's level of service standard; and
 - b. Will be dedicated to the public if the proposal is for a neighborhood park, linear park, or trail.

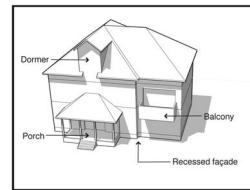
2. The development must include at least three of the following development enhancements:
 - a. Trails or paths that augment the public sidewalk system and facilitate access to parks, schools, trails, open spaces, commercial areas, and similar destinations. Trails and paths must meet all applicable federal and state accessibility standards and be dedicated to the public or placed in a public access easement. Trails and paths in a public access easement will be maintained by a homeowner association.
 - b. Nature trails along or through natural resource areas or open spaces. Trails through protected natural resource areas must obtain all necessary approvals and meet all applicable development standards. Trails must meet all applicable federal and state accessibility standards and be dedicated to the public or placed in a public access easement. Trails in a public access easement will be maintained by a homeowner association.
 - c. Trails, paths, or sidewalks that provide direct access to a public park or recreation area that is no further than 0.25 miles from the development site. Trails and paths must meet all applicable federal and state accessibility standards and be dedicated to the public or placed in a public access easement. Trails and paths in a public access easement must be maintained by a homeowner association.
 - d. Intersection treatments that are acceptable to the City Engineer and that elevate the pedestrian experience through art, landscaping, signage, enhanced crossings, or other similar treatments.
 - e. High-quality architectural features on rowhouses and small form residential development that meet the building design standards in Subsection 18.640.070.E.
3. For those properties abutting Roy Rogers Road or River Terrace Boulevard, one or more of the following enhancements may be provided in lieu of one or more of the enhancements listed in Paragraph 18.640.070.C.2:
 - a. Long-term maintenance plan administered by a homeowner association that is acceptable to the applicable road authority for any proposed or required landscaping in or adjacent to the Roy Rogers Road or River Terrace Boulevard right-of-way that is not part of a stormwater management facility.
 - b. High-quality visual and noise buffer along Roy Rogers Road that includes both a vegetative and solid barrier component outside of the public right-of-way.
 - c. Park facilities in the River Terrace Trail corridor, including, but not limited to, benches, picnic tables, lighting, or small playground areas (i.e., tot lots or pocket parks). Provision of such facilities may allow the applicant to count the trail corridor as a linear park facility, thus contributing to meeting the city's level of service standards in the River Terrace Park System Master Plan Addendum for both linear parks and trails. The Public Works Director will determine whether the proposed facilities elevate the trail corridor to a linear park facility.

- D. Street design standards. The standards of Chapter 18.910, Improvement Standards, apply in addition to the specific provisions for public skinny streets, private streets, and private alleys in Subsections 18.640.080.C and D.
- E. Design standards for small form residential and rowhouses. The following design standards apply to small form residential and rowhouses where the applicant chooses to provide them under Subparagraph 18.640.070.C.2.e or where required by Subsection 18.640.060.A. The design standards in Chapter 18.290, Small Form Residential, and Chapter 18.280, Rowhouses, apply in all other situations.

These standards are intended to promote architectural detail, human-scale design, street visibility, and privacy of adjacent properties, while affording flexibility to use a variety of architectural styles. The graphics provided are intended to illustrate how development could comply with these standards and should not be interpreted as requiring a specific architectural style. An architectural feature may be used to comply with more than one standard.

1. Articulation. All buildings must incorporate design elements that break up all street-facing facades into smaller planes as follows. An illustration of articulation is shown in Figure 18.640.2.

Figure 18.640.2 Building Articulation



- a. This standard does not apply to buildings on lots that have less than 30 feet of street frontage.
- b. For buildings on lots with 30 to 60 feet of street frontage, a minimum of one of the following elements must be provided on each street-facing facade that has 30 to 60 feet of street frontage.
 - i. A porch that is at least 5 feet deep.
 - ii. A balcony that is at least 2 feet deep and is accessible from an interior room.
 - iii. A window that projects at least 2 feet from the street-facing facade and is at least 5 feet wide (e.g., bay window).
 - iv. A vertical wall section that is offset by at least 2 feet from the street-facing facade and is at least 6 feet wide.
 - v. A gabled dormer.
- c. For buildings on lots with over 60 feet of street frontage, a minimum of one additional element from Subparagraph 18.640.070.E.1.b must be provided for every 30 feet of street frontage over 60 feet, on each street-facing facade that

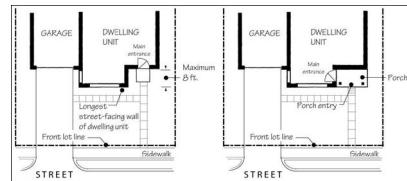
has over 60 feet of street frontage. Elements must be distributed along the length of the facade so that there is no more than 30 feet between elements.

2. Eyes on the street. At least 12 percent of the area of each street-facing facade must include windows or entrance doors. An illustration of eyes on the street is shown in Figure 18.640.3. Street-facing facade is defined as the aggregate area of all vertical exterior walls measured from top of finished floor at lowest level to top plate or roof eave at highest level, including areas of exterior walls above top plate or roof eave, such as areas within gables, dormers, and clerestories.

Figure 18.640.3 Eyes on the Street



- a. Windows. Window area is the aggregate area of each window unit measured around the visible perimeter of the window, including the outer window frame and any interior grids, mullions, or transoms.
 - i. Wall windows. All of the window area in a street-facing facade wall, including the side wall of a garage, may count toward meeting this standard provided that the windows are transparent and allow views from the building to the street. Glass blocks and privacy windows in bathrooms do not count toward meeting this standard.
 - ii. Garage door windows. Half of the window area in the doors of an attached garage may count toward meeting this standard.
- b. Entrance doors. Door area is considered the portion of the door that moves. Door frames do not count toward this standard. Entrance doors used to meet this standard must be parallel to the street or at an angle that is no more than 45 degrees from the street.
3. Entrances. At least one entrance must meet both of the following standards. An illustration of entrances is shown in Figure 18.640.4. The entrance must be:
 - a. Set back no further than 8 feet beyond the widest street-facing wall of the building that encloses living area; and
 - b. Parallel to the street, at an angle that is no more than 45 degrees from the street, or open onto a porch. If the entrance opens onto a porch, the porch must meet the following standards:
 - i. Have a minimum area of 25 square feet and a minimum depth of 5 feet,
 - ii. Have at least one porch entrance facing the street,
 - iii. Have a roof that is no more than 12 feet above the floor of the porch, and
 - iv. Have a roof that covers at least 30 percent of the porch area.

Figure 18.640.4 Entrances

4. Detailed design. All buildings must include at least five of the following elements on all street-facing facades. An illustration of detailed design elements is shown in Figure 18.640.5.
- Covered porch: a minimum depth of 5 feet, as measured horizontally from the face of the building wall, and a minimum width of 5 feet.
 - Recessed entrance area: A minimum depth of 2 feet, as measured horizontally from the face of the building wall, and a minimum width of 5 feet.

Figure 18.640.5 Detailed Design Elements

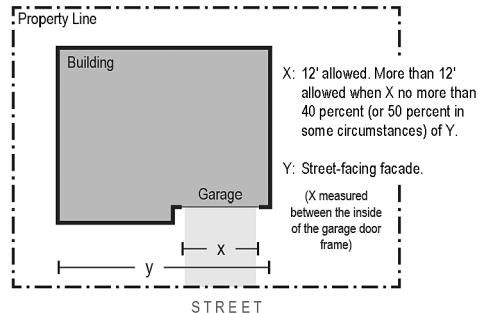
- Wall offset: a minimum offset of 16 inches from one exterior wall surface to the other.
- Dormer: a minimum width of 4 feet that is integrated into the roof form.
- Roof eave: a minimum projection of 12 inches from the intersection of the roof and the building walls.
- Roof offset: a minimum offset of 2 feet from the top surface of one roof to the top surface of the other.
- Roof shingles: tile or fire-resistant roofing material.
- Roof design: gable roof, hip roof, or gambrel roof design.
- Roof pitch: one roof pitch of at least 500 square feet in area that is sloped to face the southern sky and has its eave line oriented within 30 degrees of the true north/south axis.
- Horizontal lap siding: a minimum visible lap width of 3 to 7 inches once installed. The siding material must be wood, fiber-cement, or vinyl to meet this standard.
- Accent siding: brick, cedar shingles, stucco, or other accent material that covers a minimum of 40 percent of the street-facing facade.
- Window trim: a minimum width of 2.5 inches and a minimum depth of 5/8

inches around all street-facing windows.

- m. Window recess: a minimum depth of 3 inches, as measured horizontally from the face of the building wall, for all street-facing windows except where a bay window is proposed that meets the standard in Subparagraph 18.640.070.E.4.n.
 - n. Window projection (e.g., bay window): a minimum depth of 2 feet, as measured horizontally from the face of the building wall, and a minimum width of 5 feet.
 - o. Balcony: a minimum depth of 3 feet and a minimum width of 5 feet that is accessible from an interior room.
 - p. Attached garage: 35 percent or less of the street-facing facade width, as measured between the inside of the garage door frame.
5. Garages and carports. The purpose of these standards is to prevent garages and carports from obscuring or dominating the street-facing facade of residential buildings. An illustration of garage door width is shown in Figure 18.640.6.
- a. Garage and carport setback. A garage door or carport entrance designed for vehicle access must be set back a minimum of 20 feet from the street property line. Where vehicle access is taken from a private street or alley, this setback may be reduced to 0 feet where proper clearances for turning and backing movements are provided. A garage door or carport entrance designed for vehicle access may not be closer to the street property line than a facade that encloses living area, except as follows:
 - i. A garage or carport may extend up to 5 feet in front of a facade that encloses living area if there is a covered front porch with no horizontal dimension less than 5 feet, and the garage door or carport entrance does not extend beyond the roof of the porch, excluding gutters.
 - ii. A garage door or carport entrance may extend up to 5 feet in front of a facade that encloses living area if there is a second story above the garage that includes a street-facing window a minimum area of 12 square feet and a horizontal offset of no more than two feet from the plane of the garage door.
 - b. Garage door width. The width of a garage door is the width of the opening as measured from inside the garage door frame.
 - i. A dwelling unit is allowed one 12-foot-wide garage door, regardless of the total width of the street-facing facade.
 - ii. A dwelling unit may have a garage door wider than 12 feet provided that it does not exceed 40 percent of the total width of the street-facing facade on which the garage door is located.
 - iii. The maximum allowed garage door width may be increased to 50 percent of the total width of the street-facing facade provided that a total of 7 detailed design elements from Paragraph 18.640.070.E.4 are included on the street-facing facade on which the garage door is located.

- c. Garage orientation. A garage may face the front or street side lot line on a corner lot provided that the eyes on the street standard in Paragraph 18.640.070.E.2 is met for both street-facing facades.

Figure 18.640.6 Garage Door Width

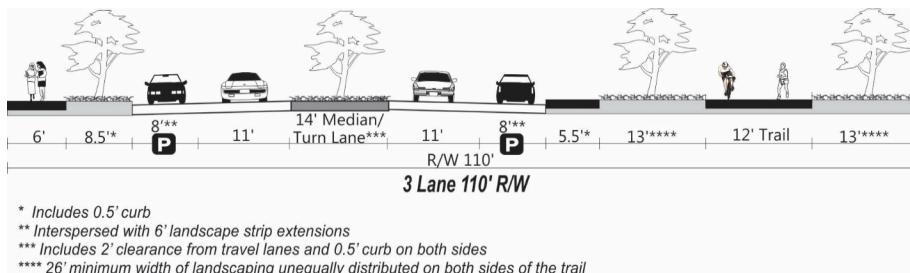


(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.640.080. Street Design.

- A. River Terrace Boulevard. The following street design standards apply to River Terrace Boulevard as shown in Figure 18.640.7. The general location of River Terrace Boulevard is shown on Map 18.640.B, which is located at the end of this chapter.

Figure 18.640.7 River Terrace Boulevard Cross-Section



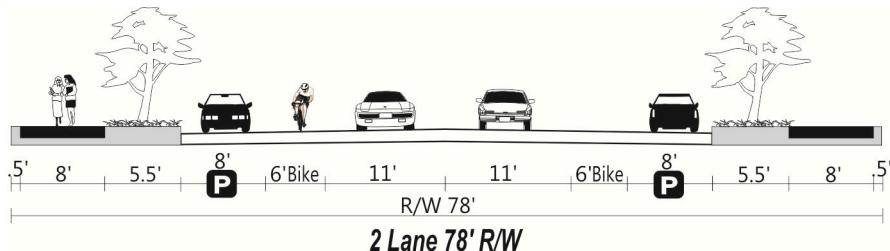
1. Design standards for River Terrace Boulevard. Right-of-way width must be 110 feet, plus additional right-of-way as needed for slopes, retaining walls, etc. Right-of-way and improvement widths may be reduced to lessen impacts on protected natural resource areas. Right-of-way and improvement widths may also be reduced where the city determines that on-street parking adjacent to the trail corridor is not feasible or necessary or where a reduction is otherwise in the public interest as described in the River Terrace Community Plan, River Terrace Transportation System Plan Addendum, or River Terrace Park System Master Plan Addendum. Given the unique nature of this street, the Public Works Director, in consultation with the Community Development Director, will determine the final alignment, right-of-way width, and improvement widths using the following standards as guidelines unless the applicant requests a formal adjustment through a Type II procedure, as provided in Chapter 18.715, Adjustments. All landscaped areas must meet the Public Improvement Design Standards for River Terrace Boulevard.

- a. Sidewalks.

- i. With or without on-street parking, and not adjacent to trail corridor: 6-foot minimum width.
 - ii. With on-street parking, and adjacent to trail corridor: 5.5-foot minimum width (includes 0.5-foot curb).
 - iii. Without on-street parking, and adjacent to trail corridor: no sidewalk required.
- b. Landscape strips.
 - i. With or without on-street parking, and not adjacent to trail corridor: 8.5-foot minimum width (includes 0.5-foot curb).
 - ii. With on-street parking, and adjacent to trail corridor: no landscape strip required.
 - iii. Without on-street parking, and adjacent to trail corridor: 8.5-foot minimum width (includes 0.5-foot curb) between travel lane and trail. This width may also be used to meet the trail corridor landscaping requirement in Subparagraph 18.640.080.A.1.f.ii.
 - c. Bike facilities. Accommodated within trail corridor described in Subparagraph 18.640.080.A.1.f.
 - d. On-street parking. 8-foot minimum width where provided, interspersed with 6-foot minimum width landscape strip extensions.
 - e. Travel lanes.
 - i. Through lanes: one 11-foot travel lane in each direction.
 - ii. Median: 14 feet between travel lanes to be used for landscaping, pedestrian crossing refuge, or left-turn lane (includes 2-foot clearance from travel lanes and 0.5-foot curb on both sides).
 - iii. Left-turn lane: 11-foot minimum width where left turns are allowed, as determined by the City Engineer.
 - f. Trail corridor. 38-foot minimum width on one side of the street.
 - i. Trail: 12-foot minimum width of paving.
 - ii. Trail corridor landscaping: 26-foot minimum width of landscaping unequally distributed on both sides of the trail to facilitate trail curvature. This width may be reduced if adjacent to a public park or other open space easement or tract and may be used for stormwater management purposes with the approval of the City Engineer.
 - g. Required street lighting. Intersection safety lighting and basic street lighting per Public Improvement Design Standards.
 - h. Vehicle access. See Paragraph 18.640.060.B.4.
- B. Commercial collector. The following street design standards apply to the commercial

collector as shown in Figure 18.640.8. These standards apply to the collector street located in the C-C zone. The general location of the commercial collector is shown on Map 18.640.B, which is located at the end of this chapter.

Figure 18.640.8 Commercial Collector Cross-Section



1. Design standards for commercial collector. Right-of-way width must be 78 feet, plus additional right-of-way as needed for slopes, retaining walls, etc. Right-of-way and improvement widths may be reduced to lessen impacts on protected natural resource areas. Right-of-way and improvement widths may also be reduced where the city determines that a reduction is in the public interest as described in the River Terrace Community Plan, River Terrace Transportation System Plan Addendum, or River Terrace Park System Master Plan Addendum. The City Engineer will determine the final alignment, right-of-way width, and improvement widths using the following standards as guidelines unless the applicant requests a formal adjustment through a Type II procedure as provided in Chapter 18.715, Adjustments.
 - a. Sidewalks. 8-foot minimum width on both sides of the street.
 - b. Landscape strips/furnishing zones/tree wells. 5.5-foot minimum width on both sides of the street (includes 0.5-foot curb).
 - c. Bike facilities. 6-foot minimum width bike lanes on both sides of the street.
 - d. On-street parking. 8-foot minimum width on both sides of the street.
 - e. Travel lanes.
 - i. Through lanes: one 11-foot lane in each direction.
 - ii. Left-turn lane: 11-foot minimum width where left turns are allowed, as determined by the City Engineer.
 - f. Required street lighting. Intersection safety lighting, basic street lighting, and pedestrian-scale lighting.
 - g. Pedestrian street crossings. Curb extensions must be provided at all pedestrian street crossings (midblock or at intersections) unless the City Engineer finds it is in the public interest not to require curb extensions (e.g., to facilitate truck turning movements).
- C. Public skinny streets and private streets. Development sites that have public street frontage on an arterial street upon which they cannot take vehicle access may take access from a private street that meets city standards or from another public street that, at a minimum, meets the skinny street option as shown in Figure 18.910.6.B. Private street standards are

established by the City Engineer in compliance with Subsection 18.910.030.T.

1. The skinny street option in Figure 18.910.6.B may be used:
 - a. Regardless of the expected number of vehicles per day;
 - b. When the applicant can demonstrate that the development fronting the proposed skinny street meets the on-street parking standards in Section 18.640.100; and
 - c. When the proposed skinny street is located in a planned development.
 2. A private street option may be used:
 - a. When the applicant can demonstrate that a public street option is not appropriate for the development being proposed or is not practicable due to topography or other natural constraints associated with the specific development site;
 - b. When the applicant can demonstrate that the proposed private street design provides safe and convenient vehicle and pedestrian connections to the public street network;
 - c. When the applicant can demonstrate that the development fronting the proposed private street meets the on-street parking standards in Section 18.640.100; and
 - d. When the proposed private street is located in a planned development;
 - e. When the proposed private street will be managed by a homeowner association into perpetuity. For each private street there must be a legal recorded document that includes the following at a minimum:
 - i. A legal description,
 - ii. Ownership,
 - iii. Use rights, including responsibility for enforcement, and
 - iv. A maintenance agreement, including an allocation or method of determining liability for a failure to maintain.
 3. Private streets that are proposed in locations other than those described in Paragraph 18.640.080.C.2 must meet all of the standards in Subsection 18.910.030.T.
- D. Private alleys. Development sites that have public street frontage on a local street, neighborhood route, or collector street may choose to provide vehicle access through a private alley provided that the alley meets all of the standards below and in Subsection 18.910.030.R.
1. The proposed alley is located in a tract for private access purposes; and
 2. The proposed alley is managed by a homeowner association into perpetuity. For each alley there must be a legal recorded document that includes the following at a minimum:
 - a. A legal description,
 - b. Ownership,

- c. Use rights, including responsibility for enforcement, and
- d. A maintenance agreement, including an allocation or method of determining liability for a failure to maintain.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.640.090. Street Connectivity.

- A. Street alignment and connections. In addition to the exceptions already allowed in Subsection 18.910.030.H, the following exceptions also apply to development in River Terrace.
 1. For development sites located on the side of the River Terrace Boulevard right-of-way with the trail corridor, an additional exception to the street spacing requirement is allowed and encouraged to minimize the number of trail crossings, provided that there are bicycle and pedestrian connections in public easements or rights-of-way a minimum of every 330 feet.
 2. For public or private school sites, an additional exception to the street spacing requirement is allowed, provided that there is adequate internal circulation for pedestrians, cyclists, and vehicles within and through the site and a sufficient number and distribution of public access points from the site to public streets, sidewalks, and trails as determined by the approval authority.

- B. Block perimeter. The perimeter of blocks formed by streets must not exceed a total of 1,600 feet measured along the centerline of the streets except where street location is precluded by natural topography, wetlands, significant habitat areas, bodies of water, pre-existing development, or an arterial or collector street along which the city has identified a need to minimize the number of intersections.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.640.100. On-Street Parking.

- A. Applicability. In addition to the standards in Chapter 18.410, Off-Street Parking and Loading, the following on-street parking standards apply to all small form residential and rowhouse development in River Terrace with individual off-street parking and vehicle access on a local street, neighborhood route, or private street or alley.
- B. Quantity standards. All small form residential development described in Subsection 18.640.100.A must provide the following number of on-street parking spaces:
 1. For a dwelling unit with one off-street parking space, a minimum of two on-street parking spaces must be provided.
 2. For a dwelling unit with two off-street parking spaces, a minimum of one on-street parking space must be provided.
 3. For dwelling units with more than two off-street parking spaces, a minimum of one on-street parking space must be provided for every two lots with more than two off-street parking spaces that are adjacent to each other.
- C. Dimensional standards. Parking spaces must be at least 20 feet in length. Parking spaces may not utilize street frontage that contains a driveway, driveway apron, crosswalk,

congregate mailbox structure, or fire hydrant to meet the required dimensional standard.

- D. Location standards. Required on-street parking spaces must be provided within the development site and along the affected lot's street frontage by parallel parking, except as provided below.
1. All or some of the on-street parking spaces required in Paragraphs 18.640.100.B.1 through 3 may be provided on a street frontage not associated with the affected lot provided that the required parking spaces are located on the same block and within 200 feet of the affected lot.
 2. All or some of the on-street parking spaces required in Paragraphs 18.640.100.B.1 through 3 may be provided in parking courts that are interspersed throughout the development when all of the following standards are met:
 - a. A parking court may not contain more than eight parking spaces.
 - b. A parking court must be located within 200 feet of the affected lots.
 - c. Parking courts within the same block and on the same side of the street must be separated by at least 200 feet of street frontage.
 - d. A parking court must be paved and comply with all applicable grading and drainage standards in this title.
 - e. A parking court must have a landscape strip around its perimeter that is at least five feet wide and contains living ground cover and trees spaced every 15 to 40 feet on center. The ground cover must include shrubs of an appropriate height to minimize headlight glare impacts on adjacent residential uses.
 - f. A parking court must be illuminated. All lighting must be shielded and directed away from adjacent residential uses.
 - g. A parking court that takes access on a public or private local street or alley may be designed to allow vehicle turning or backing movements within the street or alley. A parking court that takes access on a public neighborhood route may be designed to allow vehicle turning or backing movements within the public right-of-way with the approval of the City Engineer.
 - h. All parking spaces in a parking court must be clearly marked.
 - i. A parking court must be privately owned and maintained by a homeowner association into perpetuity. For each parking court there must be a legal recorded document that includes, at a minimum, the following:
 - i. A legal description,
 - ii. Ownership,
 - iii. Use rights, including responsibility for enforcement, and
 - iv. A maintenance agreement, including an allocation or method of determining liability for a failure to maintain.
 - j. A parking court, including landscaped areas, may not be used to satisfy any

requirement for open space or recreation. Additionally, the paved portion of a parking court may not be used as a development's stormwater management facility where it would interfere with the use of the court for parking.

- k. A parking court must be used solely for the parking of operable passenger vehicles.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.640.110. Temporary Sales Offices and Model Homes.

One temporary sales office and one or more model homes may be located and used prior to final plat approval when proposed in conjunction with a preliminary plat application for a subdivision. Any such proposal will be processed using the approval process in Section 18.440.040 and the approval criteria in Subsection 18.440.050.C, and it must comply with the provisions in this section. If a temporary sales office or model home is not proposed in conjunction with a preliminary plat application for a subdivision, one or both may be proposed at a later date in compliance with Chapter 18.440, Temporary Uses.

A. Temporary sales office.

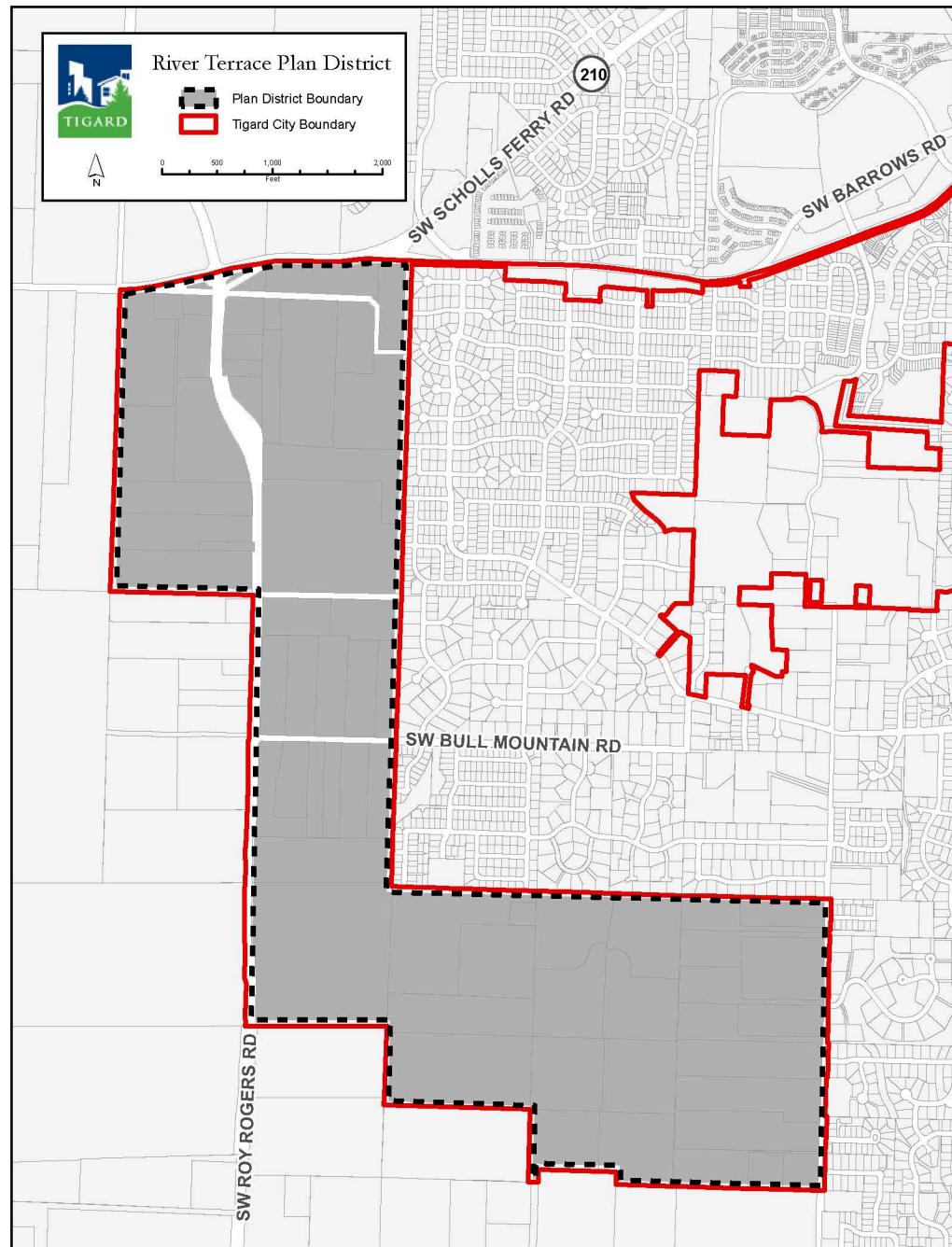
1. A maximum of one temporary sales office, not including a sales office in a model home, per subdivision is allowed for placement on a lot intended for a dwelling unit as shown on the preliminary plat.
2. Conditions of approval for a temporary sales office must protect the public's health, safety, and welfare. Conditions of approval may include, but are not limited to, the following:
 - a. Provision of adequate fire access and water supply, including fire hydrants.
 - b. Provision of safe and adequate pedestrian and vehicle access, including a sidewalk along the frontage of each sales office lot and curbs and the first lift of asphalt on all streets proposed to serve the sales office lot.
 - c. Installation of utilities within all streets proposed to serve the sales office lot.
 - d. Provision of adequate parking.
3. Any improvements to the property must be designed and constructed so as to not preclude future use of the property as zoned.

B. Model homes.

1. The maximum number of model homes allowed is as follows:
 - a. Three, or one for every 6 acres of land proposed for subdivision in a preliminary plat, whichever is greater, if the preliminary plat application is proposed in conjunction with a planned development application.
 - b. One, or one for every 6 acres of land proposed for subdivision in a preliminary plat, whichever is greater, if the preliminary plat application is not proposed in conjunction with a planned development application.
2. Conditions of approval for a model home must protect the public's health, safety, and

welfare. Conditions of approval may include, but are not limited to, the following:

- a. Provision of adequate fire access and water supply, including fire hydrants.
 - b. Provision of safe and adequate pedestrian and vehicle access, including a sidewalk along the frontage of each model home lot and curbs and the first lift of asphalt on all streets proposed to serve each model home lot.
 - c. Installation of utilities within all streets proposed to serve each model home lot.
 - d. Provision of adequate parking.
3. Any improvement to the property must be designed and constructed so as to not preclude full compliance with all applicable development standards upon final plat approval. The applicant bears the sole and complete risk of altering or relocating the model home prior to final plat approval if such actions are necessary for it to comply with all applicable development standards upon final plat approval.
 4. Each model home must be located and constructed on a separate preliminary lot intended for a dwelling unit as shown on the preliminary plat and in conformance with all applicable development standards, including but not limited to: setbacks, lot coverage, height, facade design, and access. The lot on which the model home is located is not a final approved lot for any purpose. A model home approval is not the basis for an adjustment, exception, vested right, or nonconforming use.
 5. A model home may only be occupied during established business hours and in no event be used as an overnight accommodation.
 6. One model home may be used as a temporary sales office in lieu of a temporary sales office approved in compliance with either Subsection 18.640.110.A or Subsection 18.440.030.C.
- C. Owner authorization and performance bond. A temporary use application for a sales office or model home must include authorization from the owner, binding its successors and assigns, for the city to enter the property and take such actions as are necessary to demolish and remove any temporary sales office or model home that has been declared a nuisance pursuant to Paragraph 18.640.110.D.2. The applicant must post a performance bond in favor of the city in an amount designated in the temporary use approval as a reasonable estimate of the cost sufficient for this purpose. The bond will be released upon final plat approval.
- D. Removal of model home or temporary sales office.
1. If final plat approval is not obtained prior to the expiration of the preliminary plat approval, each model home or temporary sales office must be removed and the property restored and made safe by the applicant or owner. This must occur no later than 60 days after the expiration of the preliminary plat approval.
 2. A model home or temporary sales office not removed in compliance with Paragraph 18.640.110.D.1 will be declared a nuisance. The city will enter the property and abate the nuisance by taking such actions as are necessary to demolish and remove the structure in compliance with the owner authorization and performance bond required in Subsection 18.640.110.C.

Map 18.640.A: River Terrace Plan District Boundary

Map 18.640.B: River Terrace Boulevard and Commercial Collector Location

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

**CHAPTER 18.650
Tigard Downtown Plan District**

§ 18.650.010. Purpose.

- A. Purpose. The purpose of this chapter is to implement the comprehensive plan, Tigard Downtown Improvement Plan, and urban renewal plan and ensure the quality, attractiveness, and special character of the downtown plan district, as shown on Map 18.650.A. The regulations are intended to:
1. Facilitate the development of an urban village by promoting the development of a higher density, economically viable, and aesthetically pleasing pedestrian-oriented downtown where people can live, work, play, and shop for their daily needs without relying on the automobile. The quality and scale of the downtown urban environment will foster social interaction and community celebration.
 2. Encourage the integration of natural features and the open space system into downtown by promoting development sensitive to natural resource protection and enhancement; addressing the relationship to Fanno Creek Park; and promoting opportunities for the creation of public art and use of sustainable design.
 3. Enhance the street level as an inviting place for pedestrians by guiding the design of the buildings that frame the right-of-way (the public realm) to contribute to a safe, high quality pedestrian-oriented streetscape. Building features will be visually interesting and human-scaled, such as storefront windows, detailed facades, art, and landscaping. The impact of parking on the pedestrian system will also be limited. The downtown streetscape will be developed at a human scale and closely connected to the natural environment through linkages to Fanno Creek open space and design attention to trees and landscapes.
 4. Promote Tigard's downtown as a desirable place to live and do business. Promote development of high-quality high-density housing and employment opportunities in the downtown.
 5. Provide a clear and concise guide for developers and builders by employing greater use of graphics to explain community goals and desired urban form to applicants, residents and administrators.
- B. Sub-areas. The four sub-areas located on Map 18.650.B and described below have different development standards in order to create a feeling of distinct districts within the larger zone.
1. Highway 99W and Hall Boulevard Corridor. The purpose of this sub-area is to create a pulse-point along the Highway 99W corridor. Located at the intersection of 99W and Hall Boulevard, the area has the high traffic and visibility to draw potential retail customers from the region. The area will accommodate higher levels of vehicular circulation, while maintaining a pedestrian scale at the first story of buildings. It allows development of mixed-use and retail buildings that vary in scale from single-story retail-only buildings to mixed-use buildings up to 45 feet tall with retail on the first story and residential or Office uses above.
 2. Main Street - Center Street. The purpose of this sub-area is to create pedestrian-

oriented, smaller scale development centered on the city's historic downtown Main Street. The pedestrian environment is improved with continuous building facades broken only intermittently. New buildings in the sub-area must include commercial storefront features on the first story. Residential and commercial uses are allowed on upper stories.

3. Scoffins Street - Commercial Street. The purpose of this sub-area to provide an opportunity for higher-density residential as well as an employment base comprised of civic, office, and commercial uses in the areas of Commercial Street and Scoffins Street. Residential-only buildings, commercial buildings, and mixed-use developments are allowed.
4. Fanno - Burnham Street. The purpose of this sub-area is to provide an opportunity for medium-scale residential or mixed-use development. Compatible mixed uses (live-work, convenience retail, office, and civic uses) are encouraged on the frontage of Burnham Street. The area in proximity to Fanno Creek Park will be an opportunity to create a high-quality residential environment with views and access to the natural amenity of Fanno Creek Park.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1)

§ 18.650.020. Applicability.

- A. Applicability. The regulations of this chapter apply to the Tigard Downtown Plan District in addition to all other applicable regulations of this title. The boundaries of the plan district are shown on Map 18.650.A, which is located at the end of this chapter, and on the official zoning map.
 1. New buildings. All use, development, and design standards of this chapter apply to new buildings and related site improvements.
 2. Pre-existing uses and development. Pre-existing uses and associated development that were lawfully established prior to the effective date of this chapter are treated as lawful or approved uses and developments, subject to the following:
 - a. Modifications associated with lawfully established pre-existing uses and structures are allowed, provided the modifications meet or move the nonconforming use or structure toward compliance with all applicable standards, except that small form residential development used for residential purposes that were lawfully established prior to the effective date of this chapter are exempt from the design standards of this chapter.
 - b. If a structure containing a pre-existing use is accidentally destroyed, or the use is otherwise abandoned, then the use will retain its pre-existing status under this provision provided it is substantially reestablished within one year of the date of the loss. Any new structures containing the use must comply with the provisions of this title.
 - c. Existing nonconforming industrial structures at the following locations may continue to be utilized for I-P industrial uses after the nonconforming use limit of six months: 2S102AA04700, 2S102AC00100, 2S102AC00202, 2S102AD01203, 2S102DB00100, and 2S102DA00300.

- B. Conflicting standards. With the exception of public facility requirements, the requirements in this chapter govern in the event of a conflict.
- C. Exemptions. The following are exempt from the downtown development review procedures of this chapter, but must comply with all standards:
1. Maintenance or repair of a building, structure, or site in a manner that is consistent with previous approvals or necessary for safety;
 2. Projects undertaken to bring an existing development into compliance with applicable federal and state accessibility regulations;
 3. Any modification to the exterior of a building that does not require a building permit;
 4. Interior remodeling not associated with a change of use;
 5. Temporary structures or temporary uses as defined in Chapter 18.440, Temporary Uses;
 6. Any development involving pre-existing small form residential development that is not being converted to a nonresidential use or that has previously been converted to a nonresidential use;
 7. Any change of use and associated interior remodeling on a property that is in the Main Street sub-area; or
 8. Any change to windows, doors, awnings, or other similar exterior elements on facades that are not street-facing.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.650.030. Approval Process.

A. Procedures.

1. Type I downtown development review. Downtown development review applications for development or modifications that meet the thresholds of Paragraph 18.650.030.B.1 are processed through a Type I procedure, as provided in Section 18.710.050, using the approval criteria in Subsection 18.650.040.A.
2. Type II downtown development review. Downtown development review applications for development or modifications that meet the thresholds of Paragraph 18.650.030.B.2 are processed through a Type II procedure, as provided in Section 18.710.060, using the approval criteria in Subsection 18.650.040.B.
3. Downtown adjustment. Downtown adjustment applications are processed concurrently with a downtown development review, through a Type II procedure, as provided in Section 18.710.060, using the approval criteria in Subsection 18.650.040.C. There are two types of downtown adjustments:
 - a. Adjustments to the design standards of Section 18.650.060, and
 - b. Specific adjustments allowed by Section 18.650.080.

B. Review thresholds. If a proposed development or modification is unlisted, the Director will

determine the most appropriate review type. This determination is the final local decision and will favor the review type that provides the most appropriate public notice and opportunity for public comment.

1. Type I downtown development review. A Type I downtown development review is required for the following:
 - a. Addition, elimination, or change in location of windows that does not decrease the window coverage on a street-facing facade below the minimum required;
 - b. Addition, elimination, or change in location of entrances and loading doors on a street-facing facade;
 - c. Addition of new and change to existing awnings, canopies, and other mounted structures on an existing street-facing facade;
 - d. For commercial and mixed-use developments, modification of up to 15% on-site landscaping with no reduction in required landscaping. Modification refers to changing the hardscape elements and the location of required landscape areas or trees;
 - e. Modification of off-street parking with no increase in parking spaces or paved area;
 - f. Addition of new fences, retaining walls, or both;
 - g. An increase in the height of a building of less than 20%;
 - h. A change in the type and location of access ways and parking areas where off-site traffic would not be affected;
 - i. An increase in the floor area proposed for a nonresidential use by less than 10% or under 5,000 square feet; or
 - j. A reduction in the area reserved for common open space or usable open space, which does not reduce the open space area below the minimum required by this title or reduces the open space area by less than 10%.
2. Type II downtown development review. A Type II downtown development review is required for the following:
 - a. All new development;
 - b. A change in the type of commercial or industrial structures as defined by the state building code;
 - c. An increase in the height of the building by more than 20%;
 - d. A change in the type and location of access ways and parking areas where off-site traffic would be affected;
 - e. An increase in the floor area proposed for a nonresidential use by more than 10% excluding expansions under 5,000 square feet; or
 - f. A reduction in the area reserved for common open space or usable open space,

which reduces the open space area below the minimum required by this title or reduces the open space area by more than 10%.

- C. Approval period and extensions. Expirations and extensions of approvals are provided in Subsection 18.20.050.G.
- (Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.650.040. Approval Criteria.

- A. Type I downtown development review. The approval authority will approve or approve with conditions an application for Type I downtown development review when the following are met:
1. The modification does not cause the development to go out of conformance with any applicable standard of this chapter or further out of conformance if already nonconforming, except where an adjustment has been approved; and
 2. The modification complies with all other applicable standards of this title.
- B. Type II downtown development review. The approval authority will approve or approve with conditions an application for Type II downtown development review when the following are met:
1. For new development, the proposed uses and structures comply with all applicable standards of this chapter and title; or
 2. For modifications, the modification does not cause the development to go out of conformance with any applicable standard of this chapter or further out of conformance if already nonconforming, except where an adjustment has been approved; and
 3. The proposed modification complies with all other applicable standards of this title.
- C. Downtown adjustment. The approval authority will approve or approve with conditions an application for a downtown adjustment when either:
1. The design adjustment will result in development that equally or better meets the purpose of the standard in Section 18.650.060 that is being modified, or
 2. The specific adjustment is allowed by Section 18.650.080 and complies with the approval criteria provided for that adjustment.

(Ord. 19-09 §1)

§ 18.650.050. Development Standards.

- A. Development standards. Development standards are provided in Table 18.650.1

Table 18.650.1
Development Standards

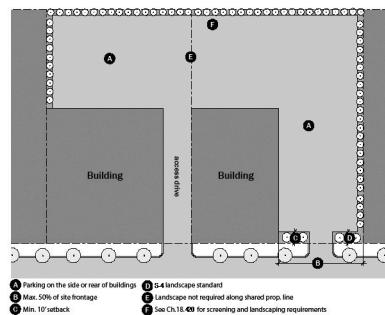
Standard	Sub-Areas			
	Main Street (MS)	99W/Hall Corridor (99H)	Scoffins/ Commercial (SC)	Fanno/Burnham (FB)
Minimum Lot Size	None	None	None	None
Minimum Lot Width	None	None	None	None
Minimum Setbacks				
- <i>Front</i>	0 ft.	0/5 ft.(5 ft. for frontage on 99W)	0 ft.	0 ft.
- <i>Street side</i>	0 ft.	0 ft.	0 ft.	0 ft.
- <i>Side</i>	0 ft.	0 ft.	0 ft.	0 ft.
- <i>Rear</i>	0 ft.	5 ft.	5 ft.	5 ft.
Maximum Setbacks				
- <i>Front</i>	10 ft.	25 ft.	20 ft.	20 ft.
- <i>Street side</i>	10 ft.	None	None	None
Building Height				
- <i>Minimum</i>	20 ft.	20 ft.	20 ft.	20 ft.
- <i>Maximum [1]</i>	80 ft.	45 ft.	80 ft.	80 ft. [2]
- <i>First story minimum</i>	15 ft.	15 ft.	None	None
Maximum Lot Coverage	100%	90%	90%	80%
Minimum Landscape Area [3]	0%	10%	10%	20%
Minimum Building Frontage	50%	50%	50%	50%
Residential Density (units per acre)				
- <i>Minimum [4]</i>	25	25	25	15
- <i>Maximum [1]</i>	50	50	50 [5]	50 [5]

Notes:

- [1] See Subsection 18.650.080.D.
- [2] 45 feet within 200 feet of Fanno Creek Park boundary (see Map 18.650.B) or within 50 feet of the RES-A through RES-D zones.
- [3] In the MU-CBD zone, required landscaping may be provided on roofs or within the abutting right-of-way where the applicant is required to provide landscaping as part of a street improvement in compliance with Section 18.650.070.
- [4] Minimum density applies to residential-only development (not mixed-use).
- [5] Maximum density in the station area overlay is 80 units per acre (see Map 18.650.B).

B. Parking.

1. Parking areas must be located on the side or rear of newly constructed buildings. If located on the side, the parking area may not exceed 50% of the total frontage of the site.
2. Parking areas must be set back a minimum of 10 feet from a street property line.
3. When abutting a public right-of-way, pedestrian paths and trails in a public easement, or a public park, parking areas must be screened to the S-4 standard as provided in Table 18.420.2.
4. Where a parking area shares a property line with an adjacent parking area, landscaping is not required along the shared property line.
5. Adjustments to the bicycle parking requirements are prohibited.

Figure 18.650.1 Parking Location**C. Rooftop features and equipment screening.**

1. The following rooftop equipment does not require screening:
 - a. Solar panels, wind generators, and green roof features;

- b. Equipment under two feet in height.
 2. Elevator mechanical equipment may extend above the height limit a maximum of 16 feet provided that the mechanical shaft is incorporated into the architecture of the building.
 3. Satellite dishes and other communications equipment are limited to a maximum of 10 feet in height and must be set back a minimum of five feet from the roof edge and screened from public view to the extent practicable.
 4. All other roof-mounted mechanical equipment is limited to a maximum of 10 feet in height and must be set back a minimum of five feet from the roof edge and screened from public view and from views from adjacent buildings by one of the following methods:
 - a. A screen around the equipment that is made of a primary exterior finish material used on other portions of the building or architectural grade wood fencing or masonry; or
 - b. Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.
- D. Other exterior mechanical equipment. Other exterior mechanical equipment on the site (electrical boxes, etc.) must be screened from public right-of-way, pedestrian paths in a public easement, public parks, public spaces, and parking areas by one or more of the following:
1. A screen around the equipment that is made of a primary exterior finish material used on other portions of the building or architectural grade wood fencing or masonry; or
 2. Dense evergreen landscaping that provides an opaque barrier. All landscaping used for this purpose must be regularly maintained.
- E. Fences. All fences must comply with the standards of Section 18.310.020. Barbed or razor wire fences are prohibited.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.650.060. Design Standards.

- A. Create vibrant first stories, streetscapes, and rights-of-way; provide weather protection; and promote safety and security.
 1. Purpose. Design standards in this section are intended to foster vibrant, inviting streetscapes and sidewalk-facing first stories and entrances. They are also intended to create buildings that are easily accessible to and provide protection from the elements for pedestrians. They also will help ensure that the first story promotes a sense of interaction between activities in the building and activities in the public realm. Building and site design should also address crime prevention through defensible spaces, lighting, and features that allow observation and eyes on the street. Windows, doors, and weather protection are an integral part of the building design.
 2. Standards.

- a. Street facade. Street-facing facades must be built in proximity to the street. This standard is met when at least 50 percent of the first story front building elevation is located no further from the front property line than the maximum front setback standard provided in Table 18.650.1; and, where maximum street-facing side setbacks are required within the Main Street-Center Street sub-area, at least 50 percent of the first story street-facing side building elevation is located no further from the street-facing side property line than the maximum street-facing side setback standard provided in Table 18.650.1.
- b. Primary entrances.
 - i. Nonresidential and mixed-use buildings.
 - (A) At least 1 entrance is required for each business with a first-story street-facing building elevation.
 - (B) Each entrance must be covered, recessed, or treated with a permanent architectural feature in such a way that weather protection is provided.
 - (C) All primary first-story common entrances must be oriented to the street or a public space directly facing the street, not to the interior or to a parking lot.
 - ii. Residential buildings.
 - (A) The primary public entrance to each building unit must be covered, recessed, or treated with a permanent architectural feature in such a way that weather protection is provided.
 - (B) All street-facing building elevations must include a primary first-story common entrance to apartment development and individual entrances to rowhouse development that are oriented to the street or public right-of-way, not to the interior or to a parking lot.
- c. Windows. Minimum window coverage includes any glazed portions of doors.
 - i. Nonresidential and mixed-use buildings.
 - (A) The minimum window area of first-story street-facing facades is 60 percent.
 - (B) First-story windows must have a visible transmittance (VT) of 0.6 or higher, with the exception of medical and dental offices, which may have tinted windows.
 - ii. Residential buildings. The minimum window area of first-story street-facing facades is 30 percent.
 - iii. Upper-story windows for all buildings.
 - (A) The minimum window area of street-facing facades above a first story is 30 percent, except on top stories that include sloped roofs and dormer windows.

- (B) The minimum ratio of vertical to horizontal dimensions for windows on a street-facing facade above a first story is 1.5:1.
- iv. Window shadowing for all buildings. Windows must be recessed 3 inches into the facade. Nonresidential and mixed-use buildings may instead incorporate trim of a contrasting material or color.
 - d. Weather protection. For nonresidential and mixed-use buildings:
 - i. A projecting facade element (awning, canopy, arcade, or marquee) is required on the street-facing facade of the street with the highest functional classification.
 - ii. Awnings, marquees, and canopies must project a minimum of 3 feet from the facade and may project a maximum of 6 feet into the public right-of-way or the minimum sidewalk width along the building frontage, whichever is less. Any element that projects into the right-of-way is subject to approval by the City Engineer.
 - iii. Marquees must have a minimum 10-foot clearance from the bottom of the marquee to the sidewalk. Awnings and canopies must have a minimum 8-foot clearance from the bottom of the awning or canopy to the sidewalk.
 - iv. Awnings must match the width of storefronts or window openings.
 - v. Internally lit awnings are not allowed.
 - vi. Awnings must be made of glass, metal, or exterior grade fabric (or a combination of these materials).

Figure 18.650.2
Residential Buildings

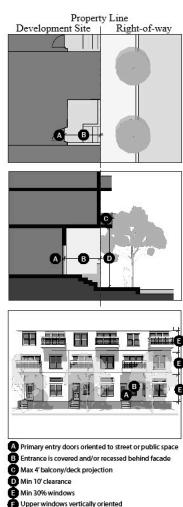
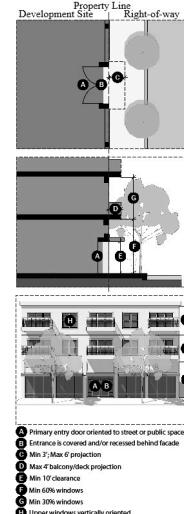


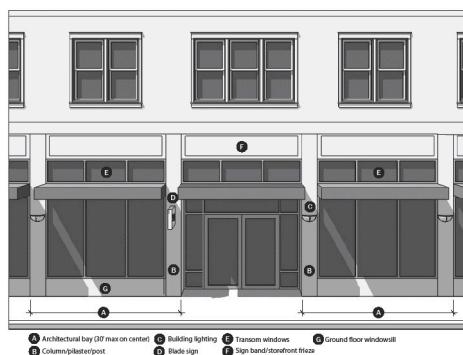
Figure 18.650.3
Nonresidential and Mixed-use Buildings



B. Cohesive architectural facade standards.

1. Purpose. Build and expand upon downtown Tigard's architectural character by incorporating cohesive and repetitive architectural elements into the first story of street-facing facades. Relate to the horizontal facade articulation and massing of surrounding development or utilize building and site design elements that connect Fanno Creek Park or extend natural elements to the downtown.
2. Standard. Divide the street-facing first story of nonresidential and mixed-use storefronts into distinct architectural bays that are no more than 30 feet on center. For the purpose of this standard, an architectural bay is defined as the zone between the outside edges of an engaged column, pilaster, post, or vertical wall area.

Figure 18.650.4 Architectural Bays



C. Integrated building facade standards.

1. Purpose. Build upon and improve downtown Tigard's architecture by creating an attractive and unified building facade that encourages first-story activities and creates visually interesting facades and roofs.
2. Standards.
 - a. Facades.
 - i. Nonresidential and mixed-use buildings without residential component. Buildings 2 stories and above must have 3 clearly defined elements on the street-facing facade: a base (extends from the sidewalk to the bottom of the second story or the belt course that separates the first story from the middle of the building); a middle (distinguished from the top and base of the building by use of building elements); and a top (roof form or element at the uppermost portion of the facade that visually terminates the facade).

Figure 18.650.5 Integrated Building Facade (Nonresidential Buildings)



- ii. Residential and mixed-use buildings with a residential component. Each street-facing dwelling unit must include a porch or balcony that extends from the facade a minimum of 1 foot and a maximum of 4 feet.

Figure 18.650.6 Integrated Building Facade (Residential and Mixed-use Buildings)

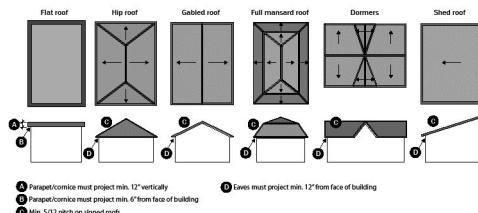


- b. Roof forms.
 - i. The roof form of a building must follow one (or a combination) of the following forms:
 - (A) Flat roof with parapet or cornice;
 - (B) Hip roof;
 - (C) Gabled roof;
 - (D) Full mansard roof;
 - (E) Dormers; or
 - (F) Shed roof.
 - ii. All sloped roofs (other than full mansard roofs) have a minimum 5/12 pitch.
 - iii. Sloped roofs must have eaves, exclusive of rain gutters, that project from

the building wall at least 12 inches.

- iv. All flat roofs or those with a pitch of less than 5/12 must be architecturally treated or articulated with a parapet wall that projects vertically above the roof line at least 12 inches or a cornice that projects from the building face at least 6 inches.
- v. When an addition to an existing structure or a new structure is proposed in an existing nonresidential development, the roof forms for the new structures must have similar slope and be constructed of the same materials as the existing roof.

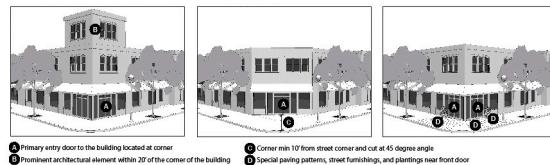
Figure 18.650.7 Roof Forms



D. Create street corners with strong identity.

1. Purpose. Create a strong architectural statement at street corners. Establish visual landmarks and enhance visual variety.
2. Standard. Nonresidential and mixed-use buildings at the corner of 2 public streets or a street and public area, park, or plaza (for the purposes of this standard an alley is not considered a public street) must incorporate one of the following features:
 - a. The primary entrance to the building at the corner;
 - b. A prominent architectural element, such as increased building height or massing, a cupola, a turret, or a pitched roof within 20 feet of the corner of the building;
 - c. The corner of the building cut at a 45 degree angle, or a similar dimension rounded corner; or
 - d. A combination of special paving materials, street furnishings or plantings near the front door.

Figure 18.650.8 Street Corner (Nonresidential and Mixed-Use Buildings)



E. Assure building quality, permanence, and durability.

1. Purpose. Use building materials that evoke a sense of permanence and are compatible with Downtown Tigard and the surrounding built and natural environment.
2. Standard. The following exterior building materials or finishes are prohibited:
 - a. Vinyl siding;
 - b. T-111 or similar sheet materials;
 - c. Plain concrete block (not including split faced, colored, or other block designs that mimic stone, brick, or other masonry); foundation material may be skim-coated concrete block where the foundation material is not revealed for more than 2 feet; and
 - d. Mirrored glass.

F. Outdoor space.

1. Purpose. Assure adequate public, private, and shared outdoor space.
2. Standards.
 - a. Nonresidential and mixed-use buildings without a residential component.
 - i. Development sites greater than 60,000 square feet must include at least 1 public outdoor space with a minimum size of 600 square feet.
 - ii. Public outdoor spaces must be abutted on at least 2 sides by retail shops, restaurants, or services with window entrances fronting on the space.
 - b. Residential and mixed-use buildings with 4 or more dwelling units.
 - i. Private outdoor space, such as a private porch, deck, balcony, patio, atrium, or other private outdoor space, must be provided.
 - (A) An average of 28 square feet of private outdoor space must be provided per dwelling unit in a development.
 - (B) In order to be counted toward the private outdoor space standard, the private outdoor space provided for each dwelling unit must be a minimum of 32 square feet, with a minimum depth of 4 feet.
 - (C) The private outdoor space provided must be contiguous with the dwelling unit.
 - (D) Balconies used for entrances or exits are not considered as private outdoor space except where such exits or entrances are for the sole use of the dwelling unit.
 - (E) Balconies may project up to a maximum of 4 feet into the public right-of-way.
 - ii. Shared outdoor space must be provided in addition to required private outdoor space. Examples include: courtyards, roof decks, gardens, play areas, outdoor recreation facilities, indoor recreation rooms, or similar

spaces. Shared outdoor space must be a minimum of 10 percent of the development site, except as follows:

- (A) Up to 50 percent of the shared outdoor space standard may be met by providing additional private outdoor space, such as balconies, porches, and patios in addition to what is required in Subparagraph 18.650.060.F.2.a.
- (B) A shared outdoor space credit of 50 percent may be granted when an apartment development is directly adjacent to an improved public park.
- (C) Credit for up to 100 percent of the shared outdoor space standard may be met by paying a fee-in-lieu. The fee will fund parks or plazas within the downtown urban renewal district.

G. Additional requirements for rowhouses.

- 1. Garages and carports must be accessed from alleys, or otherwise recessed behind the front building elevation a distance of 7 feet or less or 18 feet or greater.
- 2. A minimum of 100 square feet of private outdoor space such as a private porch, yard, deck, balcony, patio, or other private outdoor space is required per dwelling unit.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 19-09 §1; Ord. 20-01 §1)

§ 18.650.070. Transportation Connectivity.

- A. Purpose. The purpose of this section is to implement the City of Tigard 2035 Transportation System Plan, which describes a more complete system of streets and pathways to improve multi-modal access to, from, and within the plan district. The standards in this section are intended to execute connectivity improvement projects that will foster creation of smaller block sizes, efficient routes into and within downtown, and new streets to accommodate and encourage downtown development. The standards are also intended to solve some existing connectivity issues, such as access across railroad tracks.
- B. Applicability. The connectivity standards in this section apply only to those properties with designated streets or alleys as shown on Figures 5-14A through 5-14I of the City of Tigard 2035 Transportation System Plan. Development on properties with designated streets or alleys is subject to the connectivity requirements below.
- C. Required new street and alley connections. Required new street and alley connections must be provided as follows.
 - 1. For new development and for major redevelopment valued at more than 60 percent of its total current value as assessed by the Washington County assessor, the applicant must comply with the following:
 - a. The applicant must dedicate the amount of right-of-way necessary to construct the required street or alley consistent with the designated street cross-section. As an alternative, the City Engineer may approve the dedication of a public easement in lieu of a portion of the public right-of-way in compliance with Subsection 18.910.030.C.

- b. The applicant must construct the full street or alley improvements as shown in the designated street cross-section.
2. For all other developments, the applicant must comply with the following:
 - a. New buildings may not be located within the area identified as future street or alley alignment. Surface parking, landscaping, temporary structures, driveways, and similar types of development are allowed within the future alignment.
 - b. The property owner must sign a non-remonstrance agreement for formation of a future LID to pay for the identified street or alley improvement.
- D. Required new pedestrian pathway. For new development and for major redevelopment valued at more than 60 percent of its total current value as assessed by the Washington County assessor that is within the area designated for required multi-use pathway, the applicant must provide multi-use pathway on public easements or rights-of-way through the block in a manner that ensures that connections through the block are provided at least every 330 feet. The required pathway must provide direct connection through the block and be subject to the requirements of Section 18.910.110.
- E. Replacement of destroyed structures. Replacement of a pre-existing structure that is destroyed by fire, earthquake, or other natural disaster, is not considered a major redevelopment for the purposes of Subsections 18.650.060.C and D.
- F. Improvement standards. All improvements required under this section must meet the standards of Chapter 18.910, Improvement Standards.

(Ord. 19-09 §1; Ord. 20-01 §1)

§ 18.650.080. Specific Adjustments.

- A. Adjustments to setbacks. Required setbacks may be reduced or increased up to 20% provided the change will result in one or more of the following:
 1. Enhancements to the pedestrian environment along the proposed development's street frontage, including, but not limited to, the following:
 - a. Plaza development,
 - b. Tree preservation,
 - c. Pedestrian amenities in the public right-of-way, or
 - d. Pedestrian-oriented building facade design elements; or
 2. The preservation of natural features for public use or benefit.
- B. Adjustments for private or shared outdoor area. Private outdoor area and shared outdoor recreation areas requirements may be waived or reduced when one or more of the following are met:
 1. The proposed use is permanent in nature and has a clear public benefit (for example, affordable or senior housing); or
 2. The total square footage of private outdoor areas and shared outdoor recreation areas

equals or exceeds the combined standard for both.

C. Adjustments to density and height. Qualified affordable housing developments are eligible for both density and height bonuses.

1. Definitions. For the purposes of this subsection, "affordable" means either:

- a. Housing for rent where the rent and utility costs constitute no more than 30% of the gross annual household income for a family at 80% of the area median income, based on the most recent Housing and Urban Development (HUD) income limits for the Portland-Vancouver Metropolitan Statistical Area (MSA); or
- b. Housing for sale where the mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, constitute no more than 30% of the gross annual household income for a family at 80% of the area median income, based on the most recent HUD incomes limits for the Portland-Vancouver MSA.

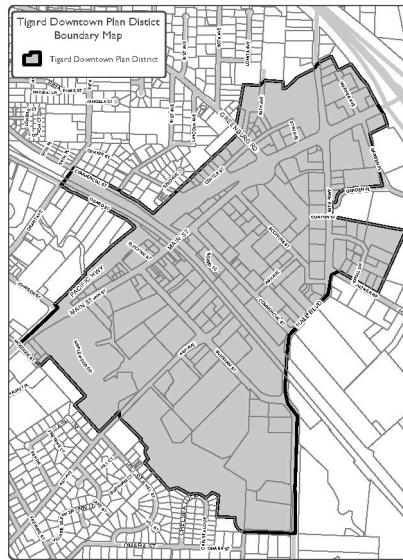
2. Approval criteria. To qualify for a density or height bonus, a development must meet the following:

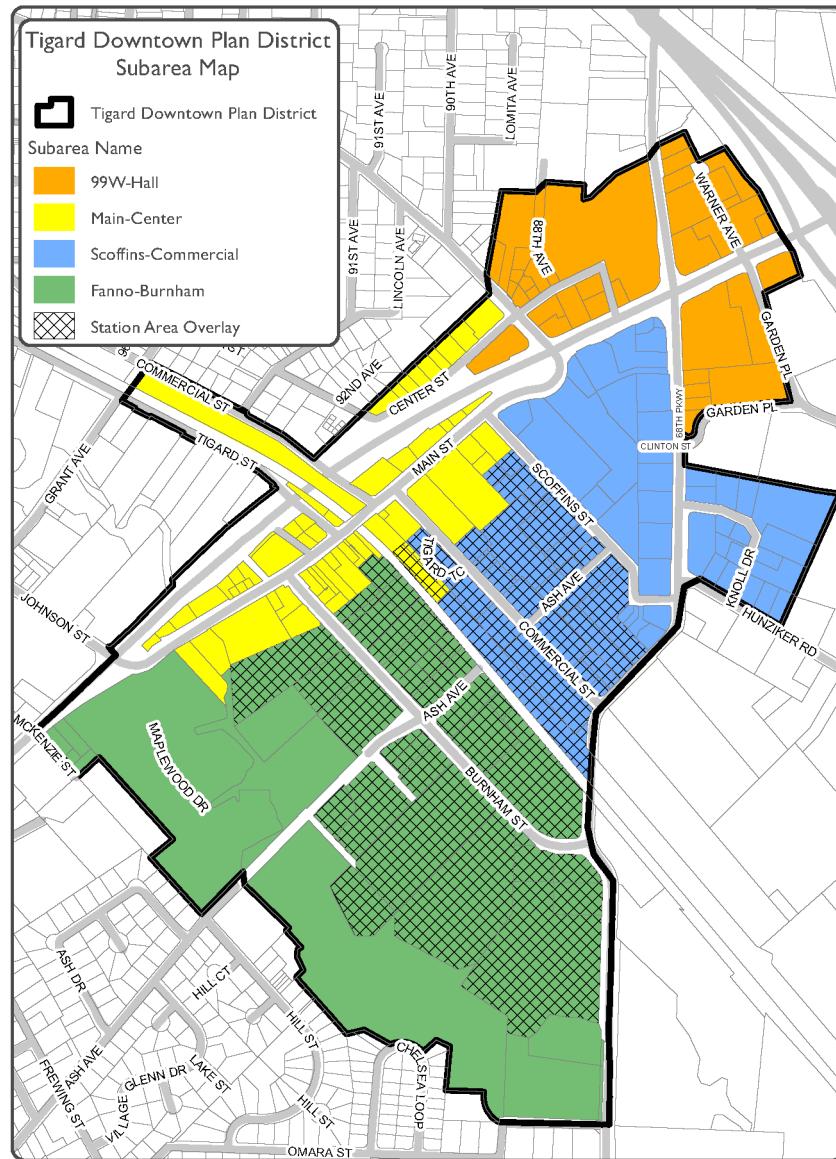
- a. The development meets the threshold for the requested bonus:
 - i. A height bonus of an additional 20 feet over the maximum height is allowed for any development where a minimum of 20% of the dwelling units are affordable.
 - ii. A density bonus is allowed for any development based on the criteria in Table 18.650.2.
- b. The approval has been conditioned on the recording of deed restriction that prohibits the sale or rental of any affordable dwelling unit used to meet the standard of Paragraph 18.650.080.D.1, except as housing that meets that standard, for the life of the development.

Table 18.650.2
Density Bonuses

Affordable Dwelling Units Based on Maximum Density	Density Bonus
5%	5%
10%	10%
20%	20%
30%	30%
40%	40%
50%	50%

Map 18.650.A: Tigard Downtown Plan District Boundaries



Map 18.650.B: Tigard Downtown Plan District Sub-Areas

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-10 §2)

**CHAPTER 18.660
Tigard Triangle Plan District**

§ 18.660.010. Purpose.

The Tigard Triangle Plan District implements the land use and development vision for the Tigard Triangle as outlined in the Tigard Comprehensive Plan. It also advances Tigard's mission to become the most walkable city in the Pacific Northwest and supports the district's designation as a regional Town Center.

The Tigard Triangle Plan District Chapter is referred to throughout Chapter 18.660 as "this chapter." The standards and procedures of this chapter are designed to:

- Remove regulatory and financial barriers for small-scale incremental development;
- Streamline the development review and approval process;
- Support existing development;
- Support transitional uses and adaptive re-use of existing development;
- Increase the diversity of goods and services available in the district;
- Encourage new housing and mixed-use development;
- Limit new auto-oriented development;
- Preserve the district's unique and natural features, including but not limited to district trees;
- Create safe, comfortable, and attractive streetscapes for pedestrians; and,
- Improve connectivity for all modes of travel.

Collectively, the purpose of these standards and procedures is to facilitate the transformation of the Tigard Triangle into an active, urban, multimodal, and mixed-use district as envisioned by the 2015 Tigard Triangle Strategic Plan.

(Ord. 17-22 §2)

§ 18.660.020. Applicability.

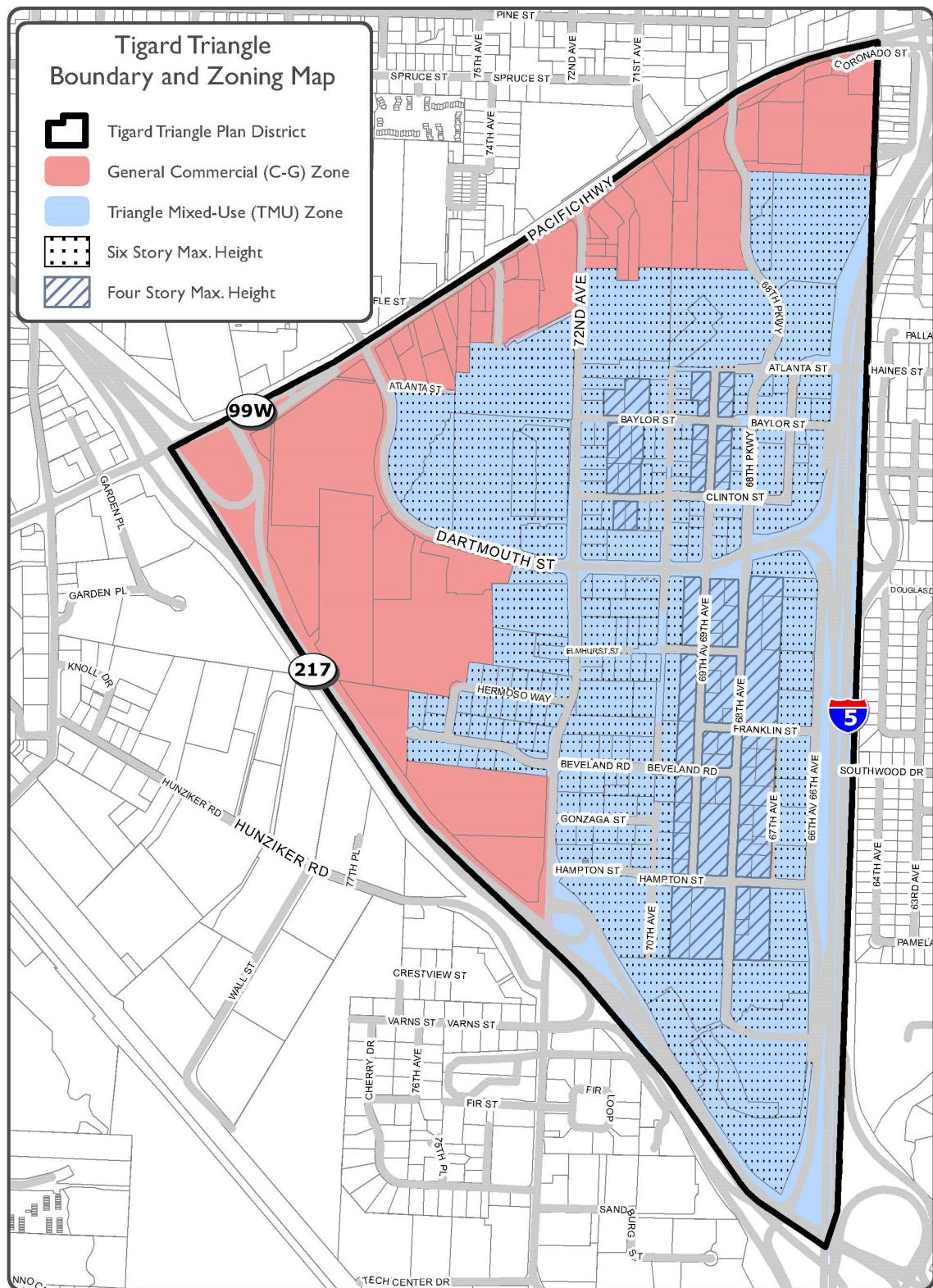
A. Applicability.

1. Triangle Mixed-Use (TMU) zone. The standards and procedures in this chapter apply to property that is located in the TMU zone within the Tigard Triangle Plan District.
2. General Commercial (C-G) zone. The standards and procedures in this chapter do not apply to property that is located in the C-G zone within the Tigard Triangle Plan District, except for the transportation facility standards in Section 18.660.090. Property in the C-G zone is regulated by other chapters in this title, including, but not

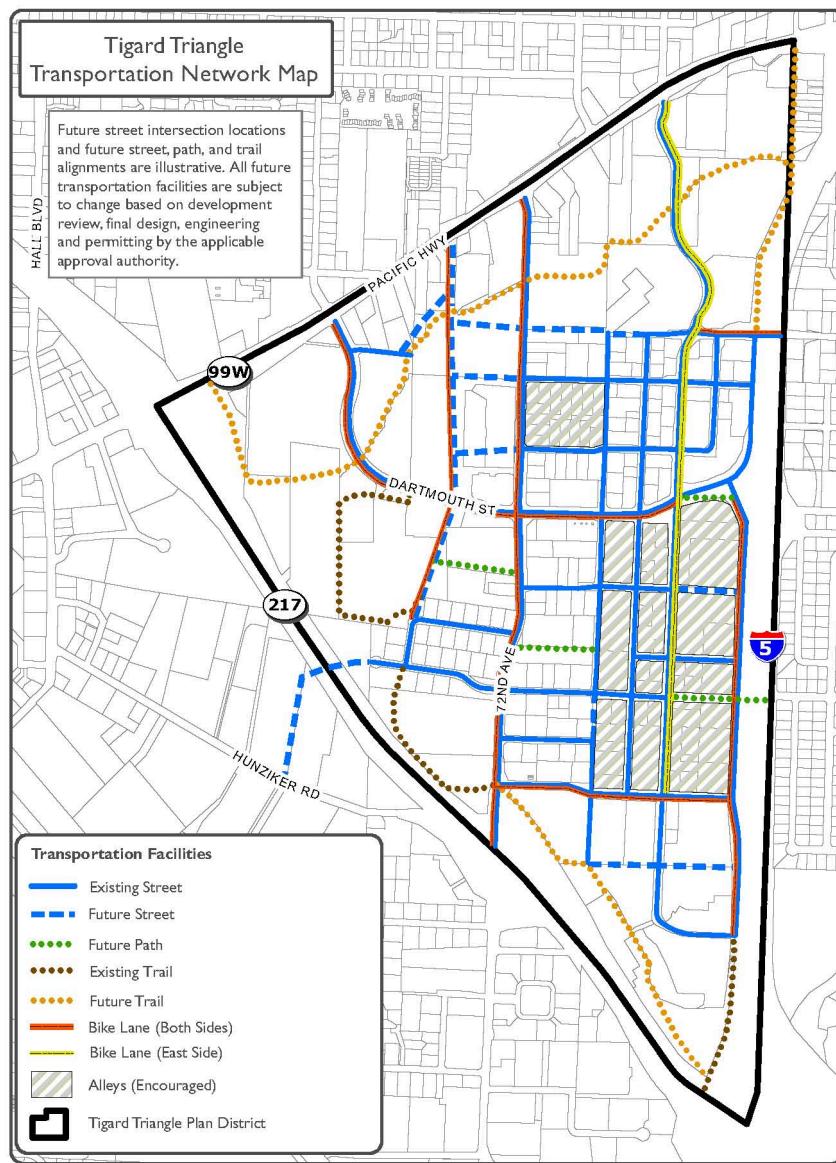
limited to, Chapter 18.120, Commercial Zones, and Chapter 18.320, Commercial Zone Development Standards.

3. Public rights-of-way. The standards in Section 18.660.090 apply to all public rights-of-way in the Tigard Triangle Plan District regardless of the zone.
4. The boundary of the Tigard Triangle Plan District is shown on Map 18.660.A. The TMU zone and C-G zone are also shown on this map and the official zoning map. Transportation facilities are shown on Map 18.660.B.

Map 18.660.A Tigard Triangle Boundary and Zoning



Map 18.660.B Tigard Triangle Transportation Network



B. Exemptions.

1. The following types of development are exempt from all standards and procedures of this chapter:
 - a. Operation, maintenance, and repair of existing public facilities.
 - b. Public capital improvement projects undertaken by the city.
 - c. Maintenance and repair of existing buildings or site improvements.
 - d. Improvements to existing buildings or site improvements to bring them into compliance with applicable federal and state accessibility requirements.

- e. Reconstruction of a building following partial or total accidental destruction when all of the following criteria are met:
 - i. The reconstructed building has a floor area no larger than the structure that was destroyed.
 - ii. The use of the building remains the same as the use that existed before the building was destroyed.
 - iii. Repairs are commenced within 1 year from the date of destruction. Commencement of repairs occurs when a required development permit has been issued.
2. If a development is not exempt from the standards and procedures of this chapter as described above, it may be exempt from some street design standards as described below. The following types of development are exempt from street frontage improvements where required by Paragraph 18.660.090.C.4, except where existing frontage improvements do not meet the city's minimum public facility standards for safety and adequacy as required by Subparagraph 18.660.040.B.2.c. This exemption does not apply to right-of-way dedications where required by Subparagraph 18.660.040.B.3.b.
 - a. Construction of a new accessory dwelling unit that is less than 800 square feet in size. This exemption is subject to the limitations provided in Paragraph 18.660.020.B.3.
 - b. Expansion of an existing building or construction of a new building that is less than 800 square feet in size. This exemption is subject to the limitations provided in Paragraph 18.660.020.B.3.
 - c. New use or change of use that increases the estimated number of vehicle trips by less than 100 trips per day or has temporary impacts on the transportation system as determined by the City Engineer. This exemption is for allowed uses only.
3. Limitation on exemptions. Exemptions allowed by Subparagraphs 18.660.020.B.2.a and b are limited to one exemption every 3 years. The 3-year period starts from the date the city issues an occupancy permit or final inspection for the expanded, converted, or new buildings exempted under Subparagraphs 18.660.020.B.2.a and b. Subsequent buildings that exceed the square footage threshold within the 3-year timeframe are not exempt.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.660.030. General Provisions.

- A. This chapter is designed, wherever possible, to act as a standalone set of standards and procedures for development in the Triangle Mixed-Use (TMU) zone within the Tigard Triangle Plan District. References to other applicable standards and procedures in the Community Development Code of the City of Tigard are provided as needed.
- B. The standards and procedures in this chapter apply in lieu of other provisions in this title, except where specifically stated otherwise in this chapter, and govern in the event of a

conflict.

- C. To the extent that the provisions in the following chapters do not conflict with this chapter, the following chapters in this title apply concurrently:
1. Administration and enforcement as provided in Chapter 18.20, Administration and Enforcement.
 2. Definitions and measurements as provided in Chapter 18.30, Definitions.
 3. Land use category descriptions as provided in Chapter 18.60, Use Categories.
 4. Director determinations as provided in Chapter 18.730, Director Determinations.
 5. Historic resource designations and alterations as provided in Chapter 18.750, Historic Resources.
 6. Text and map amendments as provided in Chapter 18.790, Text and Map Amendments.
- D. In addition to any required land use approvals or development permits, Chapter 15.16 of the Tigard Municipal Code requires an encroachment permit for any privately-owned structures or furnishings allowed by this chapter in the public right-of-way.
- (Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.660.040. Review Process.

- A. Purpose. The purpose of this section is to streamline the development review and approval process.
- B. Development review. Development review is the process whereby the applicant submits all required development permit applications to the city for review against all applicable standards. Depending upon the type of development proposed, permit applications may be submitted consecutively or concurrently. If land use review is required or initiated by the applicant pursuant to Subsection 18.660.040.C, land use approval must be obtained prior to submitting for development review.
1. Early assistance meeting. The applicant must request an early assistance meeting with the city prior to the submittal of any required building, site, or public facility permit application. The Director may waive this requirement for proposals that are not complex, would not benefit from a meeting with the city, or have had a pre-application conference as part of a related land use review.
 2. Development review requirements. All proposed development must demonstrate compliance with the following requirements at the time of development permit application submittal:
 - a. Use and design standards. The proposed development conforms to all applicable use and design standards in this chapter, except as approved through the adjustment process as provided in Paragraph 18.660.040.C.4.
 - b. Transportation facility improvements. The proposed development will provide transportation facility improvements and mitigation at the time of development as determined by the transportation facility review process described in

Paragraph 18.660.040.B.3.

- c. Minimum public facility improvements. The proposed development provides or will provide public facility improvements at the time of development that conform to the city's minimum standards for safety and adequacy, which are as follows:
 - i. Frontage on, or approved access to, a public street.
 - ii. A minimum of 24 feet of pavement and horizontal clearance on a public street along each street frontage where access is taken. Additional transportation facility improvements may be required by Subparagraph 18.660.040.B.2.b.
 - iii. Adequate public utilities pursuant to the city's standards in the Public Works Design Manual and Sections 18.910.050 Easements, 18.910.090 Sanitary Sewers, and 18.910.120 Utilities. Section 18.910.120 may require undergrounding of utilities or a fee in lieu of undergrounding new or existing utilities.
 - iv. Adequate stormwater management facilities for water quantity and quality pursuant to Clean Water Services' standards and the city's standards in the Public Works Design Manual and Section 18.910.100 Storm Drainage.
3. Transportation facility review process. The transportation facility review process determines whether transportation improvements are needed and whether the proposed development will be required to construct or pay for them.
 - a. The following review process applies to all proposed developments, except those that are exempt from street frontage improvements (see Paragraph 18.660.020.B.2) or trigger a Transportation Impact Study (see Subparagraph 18.660.040.B.3.c).
 - i. The City Engineer will determine whether the proposed development is estimated to generate any new vehicle, pedestrian, or bicycle trips using the best available data and analysis, including but not limited to the ITE Trip Generation Manual or a Transportation Impact Study prepared by a transportation engineer licensed in the State of Oregon.
 - ii. If the proposed development is estimated to generate new trips, the City Engineer will evaluate the existing transportation facilities along each street frontage of the proposed development site for conformance with the transportation facility standards in Subsection 18.660.090.C. The City Engineer will also evaluate the entire development site for conformance with Map 18.660.B Transportation Network Map. If existing transportation facilities do not meet current standards, the City Engineer will identify needed improvements based on the transportation facility standards in Subsection 18.660.090.C.
 - iii. If transportation facility improvements are needed, the city will require construction of improvements and dedication of right-of-way at the time of development unless the city determines that such exactions are not

roughly proportional to the number of new trips estimated to be generated by the proposed development. If the applicant disagrees with the city's proportionality determination, the applicant may utilize the city's Type II appeal procedure in Section 18.710.100 in a de novo hearing.

- iv. The applicant may request to pay a fee in lieu of constructing the required transportation improvements as provided in Subsection 18.660.090.D.
- b. The following review process applies to a proposed development that is exempt from street frontage improvements pursuant to Paragraph 18.660.020.B.2.
 - i. The City Engineer will determine whether the proposed development is estimated to generate any new trips as described in Subparagraph 18.660.040.B.3.a.i.
 - ii. If the proposed development is estimated to generate new trips, the City Engineer will identify needed improvements for the sole purpose of determining whether any additional public right-of-way is needed for future transportation improvements.
 - iii. If public right-of-way is needed for future transportation improvements, the city will require dedication of right-of-way at the time of development pursuant to Subparagraph 18.660.040.B.3.a.iii.
- c. The following review process applies to a proposed development that triggers a Transportation Impact Study (TIS) as described below.
 - i. A TIS is required if the proposed development is estimated by the City Engineer to generate more than 1,000 new vehicle trips per day or impacts a state transportation facility as determined by the Oregon Department of Transportation. The applicant must pay the fee listed in the city's Master Fees and Charges Schedule for the city to conduct this study. The city will not accept any development permit or land use applications for review until the TIS has been completed and incorporated into the applicant's development permit or land use application submittal.
 - ii. The TIS will evaluate the existing transportation facilities for conformance with the city's transportation facility standards, including affected off-site facilities. If existing transportation facilities do not meet current standards, the study will identify needed improvements based on the transportation facility standards in Subsection 18.660.090.C and those of any other affected road authorities. If the TIS determines that transportation facility improvements are needed, the city will require construction of improvements and dedication of right-of-way at the time of development pursuant to Subparagraph 18.660.040.B.3.a.iii.
 - iii. If the TIS identifies off-site impacts from the proposed development, the applicant must submit a land use application as required by Paragraph 18.660.040.C.2 that complies with the provisions in Paragraph 18.660.040.C.3.

C. Land use review. Whether required by this title or initiated by the applicant, land use

review precedes development review. Land use review is the process whereby the applicant submits any required or applicant-initiated land use applications to the city for review against all applicable approval criteria and standards. The provisions of Chapter 18.770, Planned Developments, do not apply to properties in the TMU zone.

1. Pre-application conference. The applicant must request a pre-application conference with the city prior to the submittal of any required or applicant-initiated land use application as required by Chapter 18.710, Land Use Review Procedures.
2. Land use applications. Required land use applications are shown in Table 18.660.1. If more than one land use application is required, they may be processed concurrently.

**Table 18.660.1
Required Land Use Applications**

Land Use Application	Circumstances	Code Section
Transportation Mitigation	The proposed development triggered a Transportation Impact Study (see Subparagraph 18.660.040.B.3.c.i) and it identified off-site impacts.	18.660.040.C.3
Adjustment	The proposed development cannot meet all applicable design standards of this chapter, or the applicant elects to propose an alternative design or remove a district tree (see Subsection 18.660.070.H).	18.660.040.C.4
Lot Line Adjustment, Lot Consolidation, Minor Land Partition, or Subdivision	The proposed development includes a land division, property line adjustment, or lot consolidation.	18.660.040.C.5
Conditional Use	The proposed development includes a Basic Utility use as defined in Subsection 18.60.050.A or a specific type of wireless communication facility as described in Chapter 18.450.	18.740

Table 18.660.1
Required Land Use Applications

Land Use Application	Circumstances	Code Section
Site Development Review	The proposed development includes a specific type of wireless communication facility as described in Chapter 18.450.	18.780
Sensitive Lands	The proposed development is located on lands that contain protected natural resources, such as streams or wetlands, and will potentially impact them.	18.510
Temporary Use or Structure	The proposed development is for a temporary use or structure.	18.440

3. Transportation mitigation application. A transportation mitigation application is processed through a Type II procedure as provided in Section 18.710.060. A transportation mitigation application will be approved when all of the following approval criteria have been met:
 - a. The required Transportation Impact Study evaluated existing on-and off-site transportation facilities for conformance with all applicable transportation facility standards; identified needed improvements to adequately serve the proposed development; and recommended proportionate mitigations for all on- and off-site impacts.
 - b. The proposed development will provide transportation facility improvements and mitigation that conform to all applicable transportation facility design standards at the time of development unless the land use review authority determines that such exactions are not roughly proportional to the impacts of the proposed development.
4. Adjustment application. An adjustment application is processed through a Type II procedure as provided in Section 18.710.060.
 - a. An adjustment application may contain multiple adjustment requests. An adjustment may be requested for any standard in this chapter unless specifically prohibited by this chapter. An adjustment may not be requested to change or eliminate a required review process. An adjustment request for a standard outside of this chapter is subject to the provision of Chapter 18.715, Adjustments.
 - b. An adjustment application will be approved when all of the following approval

criteria have been met for each requested adjustment:

- i. The proposed adjustment has public benefits and is generally consistent with the applicable stated purposes of this chapter.
 - ii. The proposed adjustment includes enhancements to the pedestrian environment along the proposed development's street frontage. Pedestrian enhancements include, but are not limited to, the following:
 - Plaza development
 - District tree preservation
 - Pedestrian amenities in the public right-of-way
 - Pedestrian-oriented building facade design elements
 - iii. If proposed adjustment is needed to address development constraints associated with the proposed development site, and applicant has adequately explained the need and rationale for the proposed adjustment. Development constraints include, but are not limited to, the following:
 - Lot size, shape, or topography
 - Multiple street frontages
 - Protected natural resources
 - iv. If proposed adjustment is needed to address transportation network connectivity standards, it includes pedestrian, bicycle, or vehicle transportation facilities where practicable. Transportation network connectivity standards are provided in Paragraph 18.660.090.C.3.
 - v. If proposed adjustment is for the removal of a district tree, the applicant will pay the district tree removal fee listed in the city's Master Fees and Charges Schedule unless a finding is made that the proposed development site cannot be reasonably developed without removal of the district tree. District tree information and requirements are provided in Subsection 18.660.070.H.
5. Lot line adjustment, lot consolidation, minor land partition, or subdivision application. The provisions in Chapter 18.810, Lot Line Adjustments and Consolidations, Chapter 18.820, Land Partitions, and Chapter 18.830, Subdivisions, apply except as modified below.
- a. Lot size and shape must be appropriate for the proposed development or, if no development is proposed, for an allowed use. There is no minimum lot area, width, or depth standard in the TMU zone.
 - b. Lots must have frontage on, or approved access to, a public street.
 - c. Driveways must comply with the standards in Subsection 18.660.070.G.
 - d. Screening is not required between lots.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.660.050. Pre-Existing Development and Approvals.

- A. Purpose. The purpose of this section is to remove barriers to small-scale incremental development and support existing development, transitional uses, and adaptive re-use of existing development.
- B. Legal status. Any pre-existing land use or development that does not meet the standards in this chapter but were lawfully in existence or approved prior to the effective date of this chapter are treated as lawful and approved uses and development. The provisions of Chapter 18.50, Nonconforming Circumstances, do not apply to land uses and development in the TMU zone.
- C. Sites with pre-existing land uses.
 1. A pre-existing land use that does not meet the land use standards in Section 18.660.060 may continue but may not expand beyond the boundaries of the site that it occupied prior to the effective date of this chapter, except for any pre-existing land uses within the area bounded by 66th Avenue and 68th Avenue to the east and west and Dartmouth Street and Franklin Street to the north and south, respectively. Any pre-existing land uses within this area that do not meet the land use standards in Section 18.660.060 may continue and expand beyond the boundaries of the site that it occupied prior to the effective date of this chapter, but not beyond the boundaries of the area described above.
 2. A pre-existing land use that does not meet the land use standards in Section 18.660.060 may not be re-established if discontinued for longer than six months, except where the discontinuance is the result of accidental destruction. Discontinuance caused by total or partial accidental destruction must commence repairs to re-establish the use within one year from the date of destruction. If repairs are not commenced within the one-year period, the use may not be re-established. Commencement of repairs occurs when a required development permit has been issued.
- D. Sites with pre-existing development.
 1. Pre-existing development that does not meet the site or building design standards in Sections 18.660.070 and 18.660.080 may be re-established or re-built if accidentally destroyed as long as repairs are commenced within one year from the date of destruction. If repairs are not commenced within the one-year period, the development may not be re-established or re-built. Commencement of repairs occurs when a required development permit has been issued.
 2. Pre-existing development that does not meet the site or building design standards in Sections 18.660.070 and 18.660.080 may not be re-established or re-built if intentionally destroyed unless the new development meets the site and building design standards in this chapter.
 3. Pre-existing site improvements, such as vehicle parking and access, that do not meet the site design standards in Section 18.660.070 may continue but may not be modified

if the modification would result in any site improvement going further out of conformance with the applicable site design standard in Section 18.660.070.

4. Pre-existing buildings that do not meet the site or building design standards in Sections 18.660.070 and 18.660.080 may continue and be modified subject to the standards in Table 18.660.2. Applicable standards only apply to the proposed modification and not to the non-modified portion of the existing building. Modifications that expand a building may be vertical (e.g., second-story addition), horizontal (e.g., first-story expansion), or both (e.g., second-story addition).

**Table 18.660.2
Modifications to Pre-Existing Buildings**

Proposed Building Modification	Applicable Standards
<ul style="list-style-type: none"> • Addition to small form residential development • Addition to an accessory building associated with small form residential development that results in a building less than or equal to 528 square feet in size, or • Addition to any building where the addition is located more than 35 feet away from all street property lines. 	<p>Exempt from all site and building design standards in Sections 18.660.070 and 18.660.080 except:</p> <ul style="list-style-type: none"> • Minimum building setbacks (18.660.070.B) • Driveways (18.660.070.G) • District trees (18.660.070.H) • Maximum building height (18.660.080.B), and <p>Subject to all applicable standards in Sections 18.660.060 and 18.660.090.</p>
<ul style="list-style-type: none"> • All other additions not described above. 	Subject to all applicable standards in Sections 18.660.060, 18.660.070, 18.660.080, and 18.660.090

5. New land uses and development may be proposed on sites with pre-existing land uses and development subject to the following standards:
 - a. All new land uses must meet the land use standards in Section 18.660.060.
 - b. All new site improvements, such as vehicle parking and access, must meet the site design standards in Section 18.660.070.
 - c. All new buildings are subject to the standards in Table 18.660.3.

Table 18.660.3
New Buildings on Sites with Pre-Existing Development

Proposed New Building	Applicable Standards
<ul style="list-style-type: none"> • New accessory building associated with small form residential development and less than or equal to 528 square feet in size, or • New building located partially or completely behind an existing building and more than 35 feet away from all street property lines. 	Exempt from all site and building design standards in Sections 18.660.070 and 18.660.080 except: <ul style="list-style-type: none"> • Minimum building setbacks (18.660.070.B) • Driveways (18.660.070.G) • District trees (18.660.070.H) • Maximum building height (18.660.080.B), and Subject to all applicable standards in Sections 18.660.060 and 18.660.090.
<ul style="list-style-type: none"> • All other new buildings not described above. 	Subject to all applicable standards in Sections 18.660.060, 18.660.070, 18.660.080, and 18.660.090.

E. Sites with pre-existing land use approvals.

1. Exceptions. The provisions in Paragraphs 18.660.050.E.2 through 4 apply to all development except those involving Basic Utility uses and wireless communication facilities. These types of development continue to be subject to all previously imposed conditions of approval. They also continue to be subject to the standards and procedures in Chapter 18.740, Conditional Uses and Chapter 18.450, Wireless Communication Facilities, respectively, unless different standards are approved through the adjustment process as provided in Paragraph 18.660.040.C.4.
2. Conditions of approval. Development that obtained land use approval and a final certificate of occupancy or inspection prior to the effective date of this chapter is not subject to any previously imposed conditions of approval. Development that obtained land use approval, but not a final certificate of occupancy or inspection, prior to the effective date of this chapter must continue to comply with all previously imposed conditions of approval until a final certificate of occupancy or inspection, whichever is applicable, is obtained.
3. Phased developments. Development that obtained land use approval for a phased site development review application prior to the effective date of this chapter is allowed to complete all approved phases as provided in the specific land use approval or as allowed by Subsection 18.20.050.G.
4. Modifications. Modifications to development that obtained land use approval prior to the effective date of this chapter are subject to the standards and procedures in this chapter.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.660.060. Land Use Standards.

- A. Purpose. The purpose of these standards is to encourage urban mixed-use development,

limit suburban auto-oriented development, support transitional uses and adaptive re-use of existing development, and increase the diversity of goods and services available in the district.

B. General provisions.

1. Vertical and horizontal mixed-use development is allowed subject to the land use standards in Subsection 18.660.060.C.
2. Mobile food carts are allowed subject to the city's food cart policy.
3. Development with drive-through service is prohibited.
4. Land uses are described in Chapter 18.60, Use Categories.

C. Land use standards.

1. Allowed (A) land uses are listed in Table 18.660.4.
2. Restricted (R) land uses are listed in Table 18.660.4 and are subject to the following restrictions:
 - a. Non-accessory parking must be located within parking structures except where existing surface parking is proposed to be used for non-accessory parking. Covered parking is not considered a parking structure.
 - i. Non-accessory parking structures must meet all applicable design standards in this chapter. Additionally, ground stories must be designed as flexible structures with flat floor decks that can transition to accommodate allowed uses in the future.
 - ii. New non-accessory surface parking is allowed if approved through the adjustment process as provided in Paragraph 18.660.040.C.4.
 - b. The maximum floor area for Bulk Sales and Sales-Oriented Retail uses is 30,000 square feet per tenant space.
 - c. The maximum floor area for General Industrial and Light Industrial uses is 2,000 square feet per tenant space. These uses must also:
 - i. Not utilize, store, or create highly combustible, explosive, or hazardous materials, and
 - ii. Not be located outside of a building except for utilities, service areas, and off-street parking and loading areas. These types of activities must be located and screened as required by the site design standards in Section 18.660.070.
 - d. Wireless communication facilities are subject to the land use review process and associated standards in Chapter 18.450, Wireless Communication Facilities, unless different standards are approved through the adjustment process as provided in Paragraph 18.660.040.C.4 or required by federal law.
3. Conditional (C) land uses are listed in Table 18.660.4 and are subject to the land use review process and associated development standards provided in Chapter 18.740,

Conditional Uses.

4. Prohibited (P) land uses.

a. Prohibited uses are listed in Table 18.660.4 and are not eligible for adjustment through the land use review process provided in Paragraph 18.660.040.C.4.

b. All marijuana facilities are prohibited.

Table 18.660.4 Use Table	
Use Category	
<i>Residential Use Category</i>	
Residential Use	A
<i>Civic/Institutional Use Categories</i>	
Basic Utilities	C
Colleges	A
Community Service	A
Cultural Institutions	A
Day Care	A
Emergency Services	A
Medical Centers	A
Postal Service	A
Religious Institutions	A
Schools	A
Social/FraternaL Clubs/Lodges	A
Temporary Shelter	A
<i>Commercial Use Categories</i>	
Adult Entertainment	P
Animal-Related Commercial	P
Bulk Sales	R
Commercial Lodging	A
Custom Arts and Crafts	A
Eating and Drinking Establishments	A
Indoor Entertainment	A
Major Event Entertainment	P
Motor Vehicle Sales/Rental	P
Motor Vehicle Servicing/Repair	P
Non-Accessory Parking	R

Table 18.660.4
Use Table

Use Category	
Office	A
Outdoor Entertainment	P
Outdoor Sales	P
Personal Services	A
Repair-Oriented Retail	A
Sales-Oriented Retail	R
Self-Service Storage	P
Vehicle Fuel Sales	P
<i>Industrial Use Categories</i>	
General Industrial	R
Heavy Industrial	P
Industrial Services	P
Light Industrial	R
Railroad Yards	A
Research and Development	A
Warehouse/Freight Movement	P
Waste-Related	P
Wholesale and Equipment Rental	P
<i>Other Use Categories</i>	
Cemeteries	P
Detention Facilities	P
Heliports	P
Mining	P
Transportation/Utility Corridors	A
Wireless Communication Facilities	R

A=Allowed

R=Restricted

C=Conditional
Use

P=Prohibited

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-09 §2)

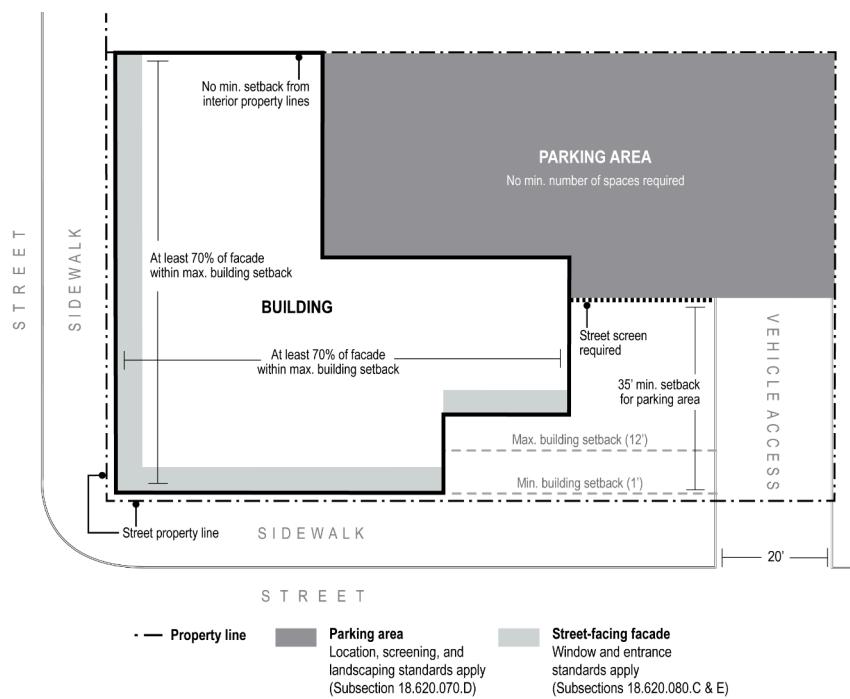
§ 18.660.070. Site Design Standards.

- A. Purpose. The purpose of these standards is to create safe, comfortable, and attractive streetscapes for pedestrians and preserve district trees, specifically the Oregon white oak (*Quercus garryana*). In keeping with the stated purpose of this section, site design standards

do not apply to street property lines along Interstate 5 and Highway 217.

B. Building location.

1. Street setbacks. The minimum building setback is one foot from the street property line. This standard applies to the entire building, except for building projections as allowed by Section 18.660.080.D. The maximum building setback is 12 feet from the street property line. This standard is met when at least 70% of the street-facing building facade is located no more than 12 feet away from the street property line as shown in Figure 18.660.1.
 - a. For sites with more than one street property line, such as corner or through lots, the maximum building setback standard applies to all street property lines except where all of the following are met:
 - i. The maximum building setback standard is met on at least one street property line, and
 - ii. The building is located at least 35 feet away from the other street property lines.
 - b. For lots with existing buildings, the maximum building setback standard does not apply in the following situations:
 - i. A new building is proposed to be completely located behind an existing building that meets the maximum building setback standard, or
 - ii. There is less than 25 linear feet of street frontage that does not contain a building within the maximum building setback area.
 - c. The maximum street setback standard may be increased to 15 feet beyond the drip line of a district tree, as defined in Subsection 18.660.070.H, where a district tree is proposed to be preserved.
2. Interior setbacks. There is no minimum or maximum building setback standard for interior property lines.
3. Clear vision areas. The clear vision standards in Chapter 18.930, Vision Clearance Areas, do not apply to development in the TMU zone. See Paragraph 18.660.070.G.4 for driveway sight distance requirements.

Figure 18.660.1 Site and Building Design Standards

C. Utilities and service areas.

1. Above-ground private utilities proposed to serve a single development, such as transformers and control valves, that are 1 cubic foot or greater in volume or have any 1 dimension greater than 2 feet must be located on the site with the proposed development, and:
 - a. Located inside a building;
 - b. Located no closer to the street property line than the street-facing facade of the nearest building on site and painted or wrapped with a non-reflective material that is dark in color; or
 - c. Screened as required by Paragraph 18.660.070.F.4.
2. Service areas, such as those that contain waste and recycling containers, outdoor storage, and mechanical equipment, must be screened as required by Paragraph 18.660.070.F.4 where not screened by a building.
3. Landscaped stormwater facilities and roof-top mechanical equipment are exempt from these standards. Vehicle parking and loading areas are subject to the standards in Subsection 18.660.070.D. Wireless communication facilities are subject to the standards and procedures in Chapter 18.450, Wireless Communication Facilities.

D. Off-street vehicle parking and loading.

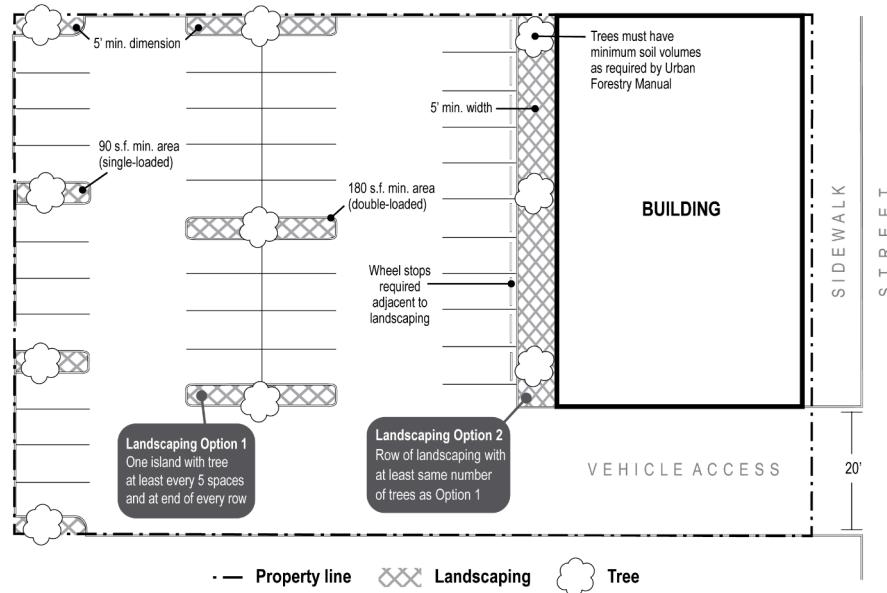
1. Quantity. The maximum quantity standards for off-street parking areas are provided in Table 18.410.3. Adjustments to maximum parking quantity standards are

prohibited. There is no minimum or maximum quantity standard for off-street loading areas.

2. Size. Off-street parking spaces must be a minimum of seven and one-half feet in width and 17.5 feet in length.
3. Location. Off-street parking and loading areas, except those within parking structures, must be located behind a building or at least 35 feet away from all street property lines. For purposes of this chapter, a parking structure includes an individual garage associated with a residential use.
4. Screening. Off-street parking and loading areas not located behind a building, except those within parking structures, must be screened as required by subsection F.4.
5. Landscaping.
 - a. Off-street parking areas 20,000 square feet in size or more, as measured using the method provided in Section 18.40.150, must meet the standards of Section 18.410.030.M.2.
 - b. Off-street parking areas with more than 10 spaces, but less than 20,000 square feet in area, except those that are covered or within parking structures, are subject to the following standards as shown in Figure 18.660.2:
 - i. One landscaped island with a tree must be provided at the end of each row of parking and at intervals of at least every five spaces within each row of parking. A landscaped area that runs the entire length of a row of parking may be provided instead of the required landscaped islands but must contain at least the same number of trees as the islands.
 - ii. All required landscaped areas must be a minimum of 90 square feet in size for single-loaded parking rows or 180 square feet in size for double-loaded parking rows. The required landscape area must be a minimum of five feet, as measured in any horizontal direction from the inside of any proposed curb.
 - iii. All required landscaped areas must be protected from vehicle overhang through the use of wheel stops.
 - iv. All required and proposed trees must have a minimum caliper of one and one-half inches at the time of planting and meet the standards in Section 13 Part 2 and Appendix 3 of the Tigard Urban Forestry Manual for soil volume and species. All required trees must be maintained in good health and be replaced as needed to meet the parking area landscaping standards into perpetuity.
 - v. A required landscaped area may be used to meet the city's stormwater standards.
6. Vertical clearance. Off-street parking areas must have a minimum vertical clearance of seven feet. Off-street loading areas must have a minimum vertical clearance of 15 feet.

7. Circulation. Off-street parking and loading areas must be designed to prevent vehicles from backing into the street unless approved by the City Engineer.
8. Surface material. Off-street parking areas, except those that are covered or within parking structures, must be paved, graveled, or utilize a turf grid or open joint pavers. Covered or structured off-street parking areas and all off-street loading areas must be paved.
9. Electrical service capacity. Off-street parking areas must meet the standards of Section 18.410.030.L.

Figure 18.660.2 Parking Area Landscaping Standards



E. Public bicycle parking.

1. Quantity. The minimum quantity standard for public bicycle parking is provided in Table 18.660.5. There is no maximum quantity standard for public bicycle parking. Public bicycle parking is defined as bicycle racks or lockers that are available for use by members of the public, including but not limited to visitors, employees, and residents.

Table 18.660.5
Minimum Number of Public Bicycle Parking Spaces

Proposed Development	Minimum Number of Spaces
Residential development that is not mixed-use and has more than 4 units.	1 space per 30 linear feet of street frontage or any portion thereof
Non-residential and mixed-use developments.	1 space per 20 linear feet of street frontage or any portion thereof

2. Design. All bicycle parking must meet the following standards.

- a. Bicycle racks must be designed to allow a bicycle frame to lock to it at 2 points of contact, except that spiral racks and wave racks with more than 1 loop are prohibited;
 - b. Bicycle racks must be securely anchored to the ground;
 - c. Bicycle parking spaces must be at least 2.5 feet in width and 6 feet in length and have an access aisle between each row of spaces that is at least 5 feet in width. Covered bicycle parking must provide a vertical clearance of 7 feet; and
 - d. Bicycle parking spaces must be paved with a dust-free hard surface material.
3. Location. Public bicycle parking spaces must be visible to pedestrians on the sidewalk in front of the proposed development. They must be located in front of or to the side of the building. They may be located in the public right-of-way with approval by the City Engineer. Bicycle parking must not conflict with the use and maintenance of any utilities, service areas, off-street vehicle parking and loading areas, driveways, or transportation facilities.

F. Retaining walls, fences, and street screens.

1. The maximum height of retaining walls is 4 feet where located within 12 feet of any street property line.
2. Fences and walls along street and interior property lines are allowed but not required. The maximum height of fences and walls is 3 feet where located within 12 feet of any street property line.
3. Chain link fencing and unfinished concrete blocks with any 1 dimension equal to or greater than 15 inches are prohibited within 12 feet of any street property line.
4. Street screens are required to screen off-street parking and loading areas, service areas, and some utilities from the street. Utilities and service areas include, but are not limited to, waste and recycling areas, transformers, utility vaults, and mechanical equipment. Street screens must meet the following standards:
 - a. Location. A street screen must be located within five feet of the area to be screened, except on sites sloping down from the street. A street screen on downward sloping sites must be located as far from the street property line as possible so that the area to be screened is not visible to pedestrians on the sidewalk in front of the proposed development. A line of sight analysis is required in these circumstances. A street screen is not required where it would obstruct vehicle or pedestrian access.
 - b. Height. If the area to be screened is an off-street parking area, the street screen must be between four and six feet in height. If the area to be screened is an off-street loading area, service area, or utility, the street screen must be between four and eight feet in height.
 - c. Length. The maximum length of a street screen is 12 feet where located along, and within 35 feet of, any street property line. This standard does not apply to street screens meeting the standard in Subparagraph 18.660.070.F.4.a.

- d. Materials. The street screen must be a wall, fence, or combination thereof. It must be opaque and permanent. Chain link fencing and unfinished concrete blocks are prohibited.

G. Driveways.

1. Quantity. Driveways on all streets are subject to the standards in Table 18.660.6, except for driveways on Dartmouth Street and Pacific Highway. Driveways on these streets are subject to the access management standards in Chapter 18.920, Access, Egress, and Circulation.

Table 18.660.6
Maximum Number of Driveways

Street	Length of Street Frontage	Maximum Number of Driveways
72 nd Ave	Not Applicable	1 per street frontage, except where a second driveway is required by Tualatin Valley Fire and Rescue for emergency access. If a second driveway is required, it must be: <ul style="list-style-type: none"> • Shared with an adjacent development subject to 18.660.070.G.5; or • Gated and limited to emergency vehicle access only.
All Other Streets	For each street frontage less than or equal to 300 feet in length	1 per street frontage
	For each street frontage more than or equal to 300 feet in length	1 per every 200 feet of street frontage

2. Size. Driveways for all uses, other than rowhouses and small form residential development, must be 20 feet or less in width on all streets, except for driveways on Dartmouth Street, 72nd Avenue, and Pacific Highway. Driveways on these streets must only be as wide as needed for safety and are subject to the access management standards in Subsection 18.920.030.H. Driveways for rowhouses and small form residential development must be 10 feet or less in width. Driveway width measurements do not include driveway wings.
3. Location. Driveways must be located as far apart from each other as practicable except where shared. Driveways near street intersections must be located as far from the intersection as practicable. Driveways must not be located in the influence area of any intersection with Dartmouth Street, 72nd Avenue, or Pacific Highway and are subject to the access management standards in Subsection 18.920.030.H.

4. Sight distance. Driveways must have adequate sight distance for safety. A sight distance analysis is required for proposed driveways or existing driveways on sites where development is proposed. The City Engineer will specify the technical information that must be included in the analysis.
5. Shared access. Shared access is required along 72nd Avenue for certain types of residential development to prevent a series of closely-spaced driveways. Development that includes a single detached dwelling unit or two attached dwelling units is prohibited from using a single driveway to access 72nd Avenue. Shared access between adjacent residential or nonresidential developments may also be required where practicable. Where required, shared access must be maintained into perpetuity with a recorded joint access agreement, contract, or other legally binding document.

H. District trees.

1. District trees are Oregon white oaks located throughout the TMU zone adjacent to existing and future public rights-of-way as shown on the Tigard Triangle District Tree Inventory and Map. Oregon white oaks in public rights-of-way are regulated as street trees and are subject to the provisions in Subparagraph 18.660.090.C.4.c.
2. The Director will maintain the Tigard Triangle District Tree Inventory and Map. If a district tree is found to be in the public right-of-way or is removed, as provided below, the Director will delete the tree from the district tree inventory and map.
3. District trees must be preserved but may be removed in either of the following circumstances:
 - a. The applicant has submitted an adjustment application as provided in Paragraph 18.660.040.C.4 and has obtained the necessary land use approval and tree removal permit. Tree replacement is not required.
 - b. The applicant has submitted a report from a certified arborist that demonstrates that the tree meets one of the criteria for removal in Section 7 Part 1.B.1, 2, 3, 5 or 10 of the Tigard Urban Forestry Manual for a dead, dying, or hazardous tree and has obtained the necessary tree removal permit. Tree replacement is not required.
4. Development adjacent to district trees is subject to the following standards:
 - a. A district tree preservation area must extend 15 feet beyond the drip line of the tree.
 - b. Pedestrian facilities that do not disturb district tree roots are allowed within the tree preservation area.
 - c. Buildings, driveways, and off-street vehicle parking and loading areas are not allowed within the tree preservation area.
 - d. Tree protection measures must be in place during any ground disturbance work. Tree protection measures consist of a five-foot metal fence placed on the perimeter of the tree preservation area.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-02 §3; Ord. 22-06 §2;

Ord. 22-10 §2; Ord. 23-08, 12/5/2023)

§ 18.660.080. Building Design Standards.

- A. Purpose. The purpose of these standards is to create safe, comfortable, and attractive streetscapes for pedestrians and support small-scale incremental development. In keeping with the stated purpose of this section, building design standards do not apply to street property lines along Interstate 5 and Highway 217.
- B. Building height. The maximum allowed building height is six stories, except for properties shown on Map 18.660.A that have a maximum allowed building height of four stories. Basements, as defined in Chapter 18.30, Definitions, are not considered stories for purposes of meeting this standard. The height standard for each type of story is provided in Table 18.660.7. Vertical building projections not used for human habitation such as chimneys, flag poles, and elevator shaft housings are exempt from the building height standards of this chapter, except for wireless communication facilities, which are subject to the standards in Chapter 18.450, Wireless Communication Facilities.

Table 18.660.7
Height by Type of Story

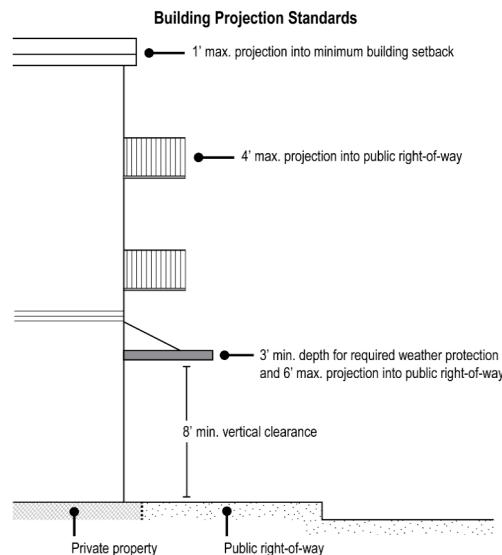
Type of Story	Height
First story	12 feet (min.) and 25 feet (max.)
Middle stories	14 feet (max.)
Top story	18 feet (max.)

- C. Building entrances. Building entrances must be provided on street-facing building facades as follows:

1. Quantity. A minimum of one building entrance must be provided for:
 - a. Every 80 feet of street-facing facade. Fractional entrance requirements are rounded up to one for street-facing facades less than 80 feet in width and rounded down to the nearest whole number for street-facing facades 80 feet in width or greater. Buildings that front onto two or more streets:
 - i. Must calculate the required number of entrances for each street-facing facade separately,
 - ii. Must meet this quantity requirement on at least one facade, and
 - iii. Are exempt from this quantity requirement on street-facing facades that are less than 50 feet in width.
 - b. Each individual residence or tenant space with a street-facing facade that is not provided with a shared street-facing entrance.
2. Location. The maximum setback for a required building entrance is 20 feet from the street property line. A required building entrance must be at an angle that is no more than 45 degrees from the street, except for entrances to individual residences. Entrances to individual residences that open onto a porch or stoop must be at an angle that is no more than 90 degrees from the street.

3. Grade. Required entrances must be within 1 foot above or below the grade of the adjacent sidewalk, except for entrances to individual residences. There is no grade requirement for entrances to individual residences.
 4. Weather protection. A required building entrance must be covered, recessed, or treated with a permanent architectural feature that provides weather protection for pedestrians. The required weather protection must be at least as wide as the entrance, a maximum of 6 feet above the top of the entrance, and a minimum of 3 feet in depth. The required weather protection may project into the minimum building setback and public right-of-way as allowed by Paragraph 18.660.080.D.3. Weather protection standards are shown in Figures 18.660.3 and 18.660.4.
- D. Building projections. Building projections are allowed as follows:
1. Architectural elements such as eaves, cornices, and bay windows may project into the minimum building setback as shown in Figure 18.660.3.

Figure 18.660.3 Building Projection Standards



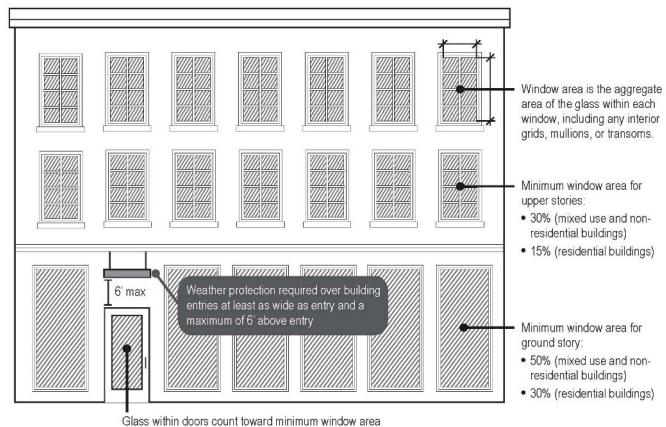
2. Balconies may project into the minimum building setback and public right-of-way as shown in Figure 18.660.3. Balconies may project a maximum of 4 feet into the right-of-way. Balconies that project into the right-of-way must have a minimum vertical clearance of 10 feet from sidewalk grade and are subject to approval by the City Engineer.
3. Weather protection elements for pedestrians along building facades, such as canopies or awnings, may project into the minimum building setback and public right-of-way as shown in Figure 18.660.3. Weather protection elements may project into the right-of-way a maximum of 6 feet or the minimum sidewalk width along the building frontage, whichever is less. Elements that project into the right-of-way must have a minimum vertical clearance of 8 feet from sidewalk grade and are subject to approval by the City Engineer.

4. Signs may project into the minimum building setback and public right-of-way subject to the standards in Subparagraph 18.435.130.G.1.c and approval by the City Engineer.
- E. Building facade windows. Building facade windows are required as follows:
1. Windows are required on all street-facing facades within 35 feet of any street property line and are subject to the window area standards in Table 18.660.8 and as shown in Figure 18.660.4. Any portion of a street-facing facade that contains vehicle parking, such as a parking structure, does not have to provide windows but must provide facade openings that meet the minimum required window area in Table 18.660.8. If required facade openings contain glass, they must meet the standards in Paragraph 18.660.080.E.3. If required facade openings do not contain glass, they may contain architectural elements that are no more than 30 percent sight-obscuring.
 2. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Facade area is the aggregate area of each street-facing vertical wall plane.
 3. Required windows must be clear glass and not mirrored, frosted, or reflective. Clear glass within doors may be counted toward meeting the window coverage standard.

**Table 18.660.8
Minimum Window Area**

Story	Use	Minimum Window Area
First Story	Nonresidential	50% of facade
	Residential	30% of facade
Upper Stories	Nonresidential	30% of facade
	Residential	20% of facade (not applicable to stories with sloped roofs or dormers)

Figure 18.660.4 Window Area and Weather Protection Standards



(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-02 §3; Ord. 22-06 §2)

§ 18.660.090. Transportation Facility Standards.

- A. Purpose. The purpose of these standards and procedures is to create safe, comfortable, and attractive streetscapes for pedestrians, improve connectivity for all modes of travel, and remove barriers for small-scale incremental development.
- B. General provisions. This section contains the standards and procedures for improvements to public transportation facilities for all property located in the Tigard Triangle Plan District, including specific standards for vehicle, pedestrian, bicycle, and transit facilities. The terms "transportation facilities" and "transportation improvements" generally include those facilities, or improvements to those facilities, that accommodate all modes of travel that are usually located in public rights-of-way, also commonly referred to as streets. "Frontage improvements" are transportation improvements immediately adjacent to a proposed development's street frontage. "Off-site improvements" are transportation improvements not adjacent to a proposed development's street frontage.
- C. Transportation facility standards.
 - 1. General standards.
 - a. All transportation and associated utility improvements to be placed in a public right-of-way or public access easement must:
 - i. Except as expressly provided in Subsection 18.660.090.C, meet the standards of the city as provided in the Public Improvement Design Standards and Chapter 18.910, Improvement Standards;
 - ii. Tie into existing transportation and associated utility improvements;
 - iii. Be reviewed and approved through the city's public facilities permitting process, including, but not limited to, the requirements in Subsection 18.910.030.S and Sections 18.910.130 through 18.910.200; and
 - iv. Obtain all necessary approvals and permits from other applicable road authorities if the right-of-way to be improved is not under the city's jurisdiction.
 - b. Right-of-way must be dedicated to the public for transportation purposes in accordance with the standards in this chapter.
 - i. Additional right-of-way dedication may be required at intersections for needed improvements identified by a transportation impact study or applicable road authority. Where practicable or required, such as along 72nd Avenue, right-of-way provided for parking lanes may be used for intersection operational needs in lieu of additional right-of-way subject to approval by the City Engineer.
 - ii. Additional right-of-way dedication or public easements may be required to address slope or drainage issues as determined by the City Engineer in addition to the maximum right-of-way widths required in Tables 18.660.9–10.
 - c. Partial transportation improvements, also called half-street improvements,

resulting in other than full improvements on both sides of the street are generally not acceptable. Partial transportation improvements may be approved where the city finds that it will be possible for the adjoining property to dedicate and improve the remainder of the street when it develops.

2. Intersection design and spacing.

- a. Streets must generally intersect at right angles (90 degrees). Angles of less than 75 degrees are not allowed unless approved by the City Engineer. Streets must generally intersect so that centerlines are not offset.
- b. Street intersections must have curb extensions to reduce pedestrian crossing distances, except on streets that do not have dedicated on-street parking lanes.
- c. New street intersections, including alleys, not shown on Map 18.660.B Transportation Network Map are subject to approval by the City Engineer and require an access report. The City Engineer will specify the technical information that must be included in the report. At a minimum, the access report must show that the proposed street intersection meets stacking, sight distance, and deceleration standards provided in the Public Improvement Design Standards or the American Association of State Highway and Transportation Officials (AASHTO) publications, or other standards as determined by the applicable road authority.
- d. Clear vision standards in Chapter 18.930, Vision Clearance Areas, and street spacing standards in Chapter 18.910, Improvement Standards, do not apply to street intersections in the TMU zone.

3. Transportation network connectivity.

- a. Minimum required transportation improvements are shown on Map 18.660.B Transportation Network Map. Additional transportation improvements for network connectivity may be required by Subparagraphs 18.660.090.C.3.b and c. Alleys are encouraged but not required. Private streets are prohibited.
- b. Block perimeters must be 2,500 feet or less in length as measured along the centerlines of streets, unless:
 - i. It is not practicable to construct a street due to topographical constraints, protected natural resource areas, or existing development patterns, and the applicant has submitted an adjustment application as provided in Paragraph 18.660.040.C.4 and obtained the necessary land use approval; or
 - ii. A future street, path, or trail on Map 18.660.B Transportation Network Map provides for a possible future connection that is feasible at the time of the proposed development and meets the block perimeter standard when included as part of the block perimeter measurement.
- c. Bicycle and pedestrian connections are required where the addition of a connection would link the end of a permanent turnaround to an adjacent street or provide a midblock connection through a long block. A midblock connection is required where at least one block face is 800 feet or more in length. A required

connection must go through the interior of the block and connect the block face that is 800 feet or more in length to its opposite block face. Bicycle and pedestrian connections include off-street trails and paths as described in Subsection 18.660.090.C.4.e.

4. Transportation facility design.

- a. Street design. All streets are subject to the standards in Table 18.660.9 and as shown in Figure 18.660.5, except for Dartmouth Street, 72nd Avenue, Pacific Highway, and the future business access street parallel to Pacific Highway that connects the western portion of Atlanta Street to the future 74th Avenue.
 - i. 72nd Avenue is subject to the standards in Subparagraph 18.660.090.C.4.b.
 - ii. Dartmouth Street and Pacific Highway are subject to the standards in Subsection 18.910.030.E.
 - iii. The future business access street is subject to the standards in Subsection 18.910.030.E, specifically the local street standard shown in Figure 18.910.6.A.

Table 18.660.9
Street Elements and Widths

Street Element	Width	Notes
Maximum Right-of-Way (without bike lanes)	64'	Any turn lanes required by the City Engineer must be accommodated in the on-street parking lane.
Maximum Right-of-Way (with bike lanes)	70' – 76'	Any turn lanes required by the City Engineer must be accommodated in the on-street parking lane. Bike lanes are required on specific streets. See Map 18.660.B for bike lane locations. Bike lanes are 6' in width and usually, but not always, located on both sides of the street.
Vehicle Lane	10'	One travel lane in each direction is required. The need for a center lane is determined by the City Engineer.

Table 18.660.9
Street Elements and Widths

Street Element	Width	Notes
Parking Lane	8'	Parking on both sides of the street is required along the full length of each block face unless otherwise approved by the City Engineer for access, sight distance, stormwater facilities, bus stops, right turn lanes, or other need as identified by the City Engineer.
Sidewalk Corridor	14'	<p>Sidewalk corridors are required on both sides of the street. Each corridor must include a sidewalk, landscape strip or tree well, and a 6" curb.</p> <ul style="list-style-type: none"> • Minimum sidewalk width is 6' • Minimum landscape strip width is 5' • Minimum tree well dimensions are 5' x 14' <p>Landscape strips and tree wells may be designed as stormwater facilities. See below for additional standards on street trees and stormwater facilities.</p> <p>Curb extensions must be included at all intersections where dedicated on-street parking lanes are provided.</p>

Figure 18.660.5 Street Elements and Widths

- b. 72nd Avenue street design. 72nd Avenue is subject to the standards below, in Table 18.660.10, and as shown in Figures 18.660.6A–6E.
- i. Sidewalks must have a minimum width of 9 feet when not adjacent to a bus stop. This minimum width includes a 1-foot-wide buffer on the side abutting the bike lane. Sidewalks must have a minimum width of 6 feet when adjacent to a bus stop.
 - ii. Landscape corridors must have a minimum width of 5 feet and include the required number of street trees in a continuous landscape strip or tree wells. If tree wells are provided, minimum dimensions are 5' by 14'. Landscape strips and tree wells may be designed as stormwater facilities. See below for additional standards on street trees and stormwater facilities.
 - iii. Bus stops located in landscape corridors or parking lanes must have a minimum width of 8 feet.
 - iv. Parking lanes must be provided along the full length of each block face where required, except where otherwise approved for mid-block crossings, private property access, sight distance, stormwater facilities, bus stops, or other needs identified by the City Engineer. Any right turn lanes required by the City Engineer must be accommodated in the on-street parking lane.
 - v. Curb extensions must be included at all intersections where dedicated on-street parking lanes are provided, except where they would interfere with bus movements.
 - vi. A reduced right-of-way width with minimal street elements is required where 72nd Avenue crosses Red Rock Creek to minimize natural resource impacts. The maximum right-of-way width is 54 feet through this sensitive lands area. The cross section includes 2 travel lanes and sidewalks and bike lanes on both sides of the street.

**Table 18.660.10
72nd Avenue Street Elements and Widths**

Street Element	Width	Notes
Pacific Highway to Red Rock Creek (Figure 18.660.6A)		
Maximum Right-of-Way	62'	See 18.660.090.C.4.b.vi for reduced right-of-way width over Red Rock Creek.
Vehicle Lane	10'	One travel lane in each direction is required. No center turn lane is required.
Sidewalk	6' – 9'	See 18.660.090.C.4.b.i.
Bike Lane	6'	
Landscape/Bus Stop Corridor	5' – 8'	See 18.660.090.C.4.b.ii and iii.
Red Rock Creek to Dartmouth Street (Figure 18.660.6B)		
Maximum Right-of-Way	90' – 94'	See 18.660.090.C.4.b.vi for reduced right-of-way width over Red Rock Creek. An additional 4' of right-of-way is required to accommodate bus pull-outs in parking lanes at bus stop locations only.
Vehicle Lane	11' – 12'	One 11' travel lane in each direction and a continuous 12' center turn lane are required.
Sidewalk	6' – 9'	See 18.660.090.C.4.b.i.
Bike Lane	6'	
Landscape/Bus Stop Corridor	5' – 8'	See 18.660.090.C.4.b.ii and iii.

**Table 18.660.10
72nd Avenue Street Elements and Widths**

Street Element	Width	Notes
Parking Lane	8' – 10'	See 18.660.090.C.4.b.iv and v. Parking lanes on both sides of the street are required. Parking lanes must be widened to 10' to accommodate bus pull-outs where bus stops are provided or required.

Dartmouth Street to Beveland Street (Figure 18.660.6C)

Maximum Right-of-Way	96'	
Vehicle Lane	11' – 12'	One 11' travel lane in each direction and a continuous 12' center turn lane are required.
Sidewalk	6' – 9'	See 18.660.090.C.4.b.i.
Bike Lane	6'	
Landscape/Bus Stop Corridor	5' – 8'	See 18.660.090.C.4.b.ii and iii.

**Table 18.660.10
72nd Avenue Street Elements and Widths**

Street Element	Width	Notes
Flex Parking Lane	11'	See 18.660.090.C.4.b.iv. Flex parking lanes on both sides of the street are required. Flex parking lanes must accommodate bus pull-outs where bus stops are provided or required. Flex parking lanes provide on-street parking during non-peak travel times and convert to travel lanes during peak travel times. Signage with parking and travel times, including violation warnings and consequences, is required.

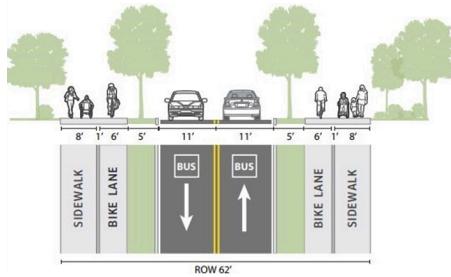
Beveland Street to Gonzaga Street (Figure 18.660.6D)

Maximum Right-of-Way	104'	
Vehicle Lane	11' – 12'	Two 11' travel lanes in each direction and a continuous 12' center turn lane are required.
Sidewalk	6' – 9'	See 18.660.090.C.4.b.i.
Bike Lane	6'	
Landscape Corridor	5'	See 18.660.090.C.4.b.ii.

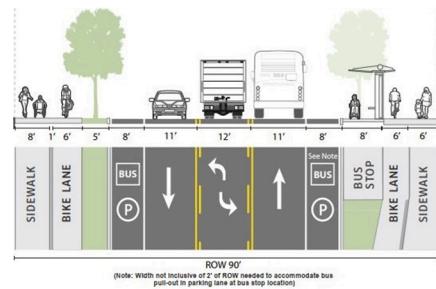
**Table 18.660.10
72nd Avenue Street Elements and Widths**

Street Element	Width	Notes
Parking Lane	8'	See 18.660.090.C.4.b.iii, iv, and v. A parking lane on the east side of the street is required. The parking lane must accommodate bus stops where provided or required.
Gonzaga Street to Highway 217 (Figure 18.660.6E)		
Maximum Right-of-Way	96'	
Vehicle Lane	11' – 12'	Two 11' travel lanes in each direction and a continuous 12' center turn lane are required.
Sidewalk	6' – 9'	See 18.660.090.C.4.b.i.
Bike Lane	6'	
Landscape/Bus Stop Corridor	5' – 8'	See 18.660.090.C.4.b.ii and iii.

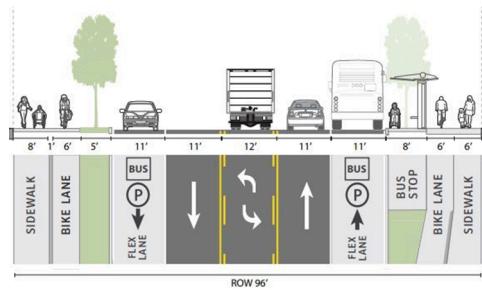
**Figure 18.660.6A Street Elements and Widths for 72nd Avenue
Pacific Highway to Red Rock Creek**



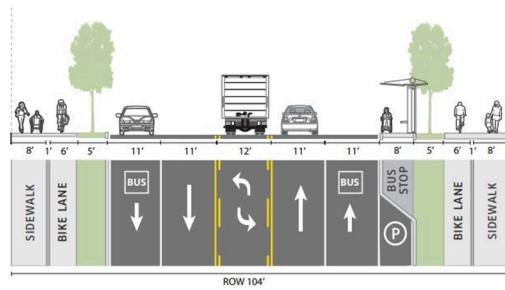
**Figure 18.660.6B Street Elements and Widths for 72nd Avenue Red
Rock Creek to Dartmouth Street**



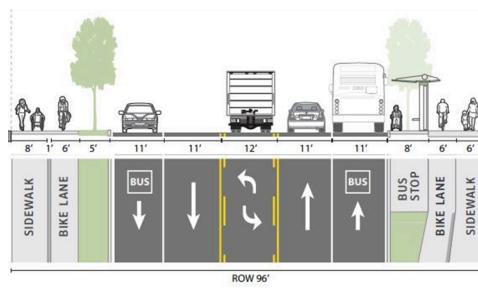
**Figure 18.660.6C Street Elements and Widths for 72nd Avenue
Dartmouth Street to Beveland Street**



**Figure 18.660.6D Street Elements and Widths for 72nd Avenue
Beveland Street to Gonzaga Street**



**Figure 18.660.6E Street Elements and Widths for 72nd Avenue
Gonzaga Street to Highway 217**



- c. Street trees.
 - i. Street trees are required along all street frontages. The minimum number of required street trees is determined by dividing the length (in feet) of the proposed development's street frontage by 40 feet. When the result is a fraction, the number of street trees required is the nearest whole number.
 - ii. Street trees must meet the standards in Section 2, Section 12, and Appendix 2 of the Tigard Urban Forestry Manual for tree size, spacing, maintenance, soil volume, and species. If tree wells are used, paving stones or Belgian blocks must be used to protect tree roots in lieu of metal or rubber grating.
 - iii. Street tree removal is subject to the city's tree removal permit process and the standards in Section 3 of the Tigard Urban Forestry Manual.
 - iv. Any Oregon white oak initially identified as a district tree, as defined in Subsection 18.660.070.H, that is located in the public right-of-way is regulated as a street tree and preserved where practicable.
- d. Stormwater facilities.
 - i. Stormwater facilities for managing stormwater runoff from transportation facilities must meet all applicable Clean Water Services and City of Tigard standards.
 - ii. Above-ground vegetated water quality facilities are required wherever practicable.
 - iii. Water quality facilities may be located in an on-street parking lane in lieu of on-street parking or in the landscape strip or tree well area of the sidewalk corridor.
 - iv. Any stormwater facilities proposed in the public right-of-way are subject to approval by the City Engineer.
- e. Pedestrian facilities.
 - i. Pedestrian facilities include sidewalks, trails, and paths. Definitions for these facilities are as follows:

- Sidewalks are paved on-street transportation facilities for pedestrians.
 - Trails are paved off-street transportation facilities for pedestrians and bicyclists that span multiple developments, lots, or blocks. They are often located next to other linear corridors such as streams, highways, or rail lines and allow users to travel greater distances than paths.
 - Paths are paved off-street transportation facilities for pedestrians and bicyclists that provide connections through or between developments within a single block or for short distances.
- ii. Sidewalks, trails, and paths must comply with the standards of this section and applicable federal and state accessibility requirements.
 - iii. Sidewalks, trails, and paths must generally be located within the public right-of-way. They may be located outside of the public right-of-way within a public access easement with approval by the City Engineer.
 - iv. Sidewalks must have a minimum unobstructed width of 6 feet for pedestrian through-travel, except for A-frame signs where the minimum unobstructed width is 4 feet. Any permanent structures or utilities within the required through-travel area are subject to approval by the City Engineer. Any sidewalk area outside of the required through-travel area may be used for commercial purposes by adjacent development or may contain pedestrian amenities, such as street furniture, bicycle parking, trash cans, and drinking fountains. Use of this area for commercial purposes includes, but is not limited to: customer seating, merchandise display, and A-frame signs. Use of this area for commercial purposes is at the sole discretion of the Director. A-frame signs are also subject to the standards and procedures in Chapter 18.435, Signs.
 - v. Trails must have a minimum right-of-way width of 15 feet and a minimum improved surface width of 10 feet. Trail widths may be reduced where constrained by existing development, protected natural resource areas, or topography as determined by the City Engineer.
 - vi. Paths must have a minimum right-of-way width of 12 feet and a minimum improved surface width of 8 feet. Path widths may be reduced where constrained by existing development, protected natural resource areas, or topography as determined by the City Engineer. Paths must be located to provide a reasonably direct connection between likely pedestrian destinations.

- f. Bicycle facilities.
 - i. Bicycle facilities include bicycle parking, on-street shared lanes, on-street bike lanes (including buffered or protected bike lanes), trails, and paths. Trails and paths are defined in Subparagraph 18.660.090.C.4.e.i.
 - ii. Bicycle facility improvements include, but are not limited to: bicycle racks, signage, pavement markings, intersection treatments, traffic calming, and traffic diversion.
 - g. Transit facilities.
 - i. Transit facilities include transit stops, transit shelters, transfer stations, and other related public transit facilities.
 - ii. Transit facility improvements include, but are not limited to: benches, signage, shelters, bus turnouts, curb extensions, bicycle parking, pedestrian crossings, and pedestrian lighting.
 - iii. Factors that determine the level of transit improvements needed include, but are not limited to: street classification, existing and planned level of transit service on adjacent streets, block length, proximity of major pedestrian destinations, existing and estimated ridership, and estimated transit needs of the proposed development.
 - iv. Transit facilities must comply with current TriMet and city standards with final approval by the City Engineer.
- D. Fee in lieu of construction (FILOC). If improvements to public transportation facilities are required by Subparagraph 18.660.040.B.2.b, the applicant may request to pay a fee in lieu of constructing the required improvements. The provisions of this Subsection do not allow the applicant to pay a fee in lieu of dedicating any needed public right-of-way.
1. FILOC review criteria. The city may accept a fee in lieu of constructing the required improvements when one or more of the following conditions exist.
 - a. The city is actively in the process of studying or developing new design standards for one or more of the streets on which the proposed development has frontage.
 - b. Required improvements are not feasible due to the location of existing development or frontage improvements.
 - c. Required improvements are not feasible due to the inability to achieve proper design and safety standards.
 - d. Required improvements are part of a larger approved capital improvement project that is listed as a funded project in a local or regional Capital Improvement Program (CIP).
 2. FILOC findings. If the City Engineer determines that a fee in lieu of construction satisfies one of the criteria in Paragraph 18.660.090.D.1, the city will accept a fee upon the City Engineer finding that deferring construction of required improvements will not result in any of the following.

- a. Safety hazards as determined by the City Engineer.
- b. New and significant street drainage issues as determined by the City Engineer.

If the City Engineer cannot make such findings, then the city will not accept a fee and will require construction of the required improvements.

3. FILOC fees. If the City Engineer determines that required improvements are eligible for FILOC, the applicant must pay the fee in lieu of constructing the required improvements unless the city determines that the fee is not roughly proportional to the number of new trips estimated to be generated by the proposed development. The City Engineer will determine the fee based upon an estimate to construct the required improvements using the average cost of the most recent capital improvement project itemized bid prices. The applicant must pay the fee to the city prior to the issuance of any development permits.
 - a. If full transportation facility improvements have been assessed with previous development on the site and the proposed development has additional impacts, the city may only assess additional FILOC fees when there has been a change to the city's street design standards.
 - b. If partial transportation facility improvements have been assessed with previous development on the site and the proposed development has additional impacts, the city may assess additional FILOC fees for the balance of the improvements.
 - c. If the applicant pays a fee in lieu of constructing the required improvements and is issued a development permit by the city but does not develop as planned, the applicant may request a refund of the FILOC fee within 3 years of payment. Any refunds are subject to the approval of the City Engineer.
4. FILOC program administration. Fees collected by the city will be used to construct public transportation facilities or to leverage additional grant money for larger transportation projects. An accounting of fees collected and expended will be made available by the city to the public on an annual basis at the end of the fiscal year. Expenditure of fees is subject to the following: Fees will be used for construction of public transportation facilities that benefit the development sites that paid the fees.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-02 §3)

§ 18.660.100. Sign Standards.

Signs in the TMU zone are subject to the standards and procedures in Chapter 18.435, Signs, and must comply with the TMU zone sign standards in Subsection 18.435.130.G.

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2)

**CHAPTER 18.670
Washington Square Regional Center Plan District**

§ 18.670.010. Purpose.

- A. Purpose.
1. The purpose of this chapter is to implement the vision, concepts, and principles contained in the Washington Square Regional Center Plan, and the recommendations contained in the Phase II Implementation Plan Summary Report prepared by a task force appointed by the City of Tigard.
 2. Metro's Regional Urban Growth Management Functional Plan target growth capacity for the Washington Square regional center will be met by allowing mixed-use development within the regional center at densities appropriate for an urban center.
 3. A mixed-use regional center will contain a variety of districts that vary in scale, predominant use, and character. Distinct districts, connected to each other and to the rest of the region by a multimodal transportation system, will provide a range of working, living, and shopping opportunities.
 4. Improved multimodal transportation links, higher densities, variety of land uses, and enhanced environmental qualities will all contribute to create a desirable, livable community in the face of dramatic population and employment growth.
 5. New mixed-use zoning districts, along with existing residential zoning districts in established areas, are appropriate for the regional center.
- B. Design principles. Design standards for public street improvements and for new development and renovation projects have been prepared for the Washington Square Regional Center Plan District. These design standards address several important guiding principles adopted for the Washington Square Regional Center Plan District, including creating a high-quality mixed-use area, providing a convenient pedestrian and bikeway system, and utilizing streetscape to create a high-quality image for the area.
- C. Development conformance. All new developments, including remodeling and renovation projects resulting in new commercial uses, are expected to contribute to the character and quality of the area. In addition to meeting the design standards described below and other development standards required by the development and building codes, developments will be required to dedicate and improve public streets; connect to public facilities such as sanitary sewer, water, and storm drainage; and participate in funding future transportation and public improvement projects necessary within the Washington Square Regional Center.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.670.020. Applicability.

- A. Applicability. The regulations of this chapter apply to nonresidential and mixed-use development in the Washington Square Regional Center Plan District. The boundaries of the plan district are shown on Map 18.670.A, located at the end of this chapter, and on the official zoning map. Residential development in the Washington Square Regional Center Plan District is subject to the standards of the applicable residential development chapter.

- B. Conflicting standards. The following standards apply to all nonresidential and mixed-use development located within the Washington Square Regional Center Plan District within the MUC, MUE and MUR zones. The standards and requirement in this chapter govern in the event of a conflict.
- C. Subdistrict. In addition to the land uses allowed in Table 18.120.1 for the MUC zone, Motor Vehicle Sales/Rental is allowed as a primary use in the subdistrict identified on Map 18.670.A. In addition to complying with all applicable development standards, Motor Vehicle Sales/Rental uses that are primary uses must meet the following standards:
1. Properties located east of Highway 217 must contain all sales and rental inventory, materials and equipment, and vehicle service areas inside a building, except for the existing Motor Vehicle Sales/Rental development located at the northwest corner of Highway 217 and Greenburg Road.
 2. Properties located west of Highway 217 must contain all sales and rental inventory, materials and equipment, and vehicle service areas inside a building or behind a building such that inventory and service areas are not visible from Cascade Avenue.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 20-01 §1; Ord. 21-13 §1; Ord. 21-16 §1)

§ 18.670.025. Application Type and Approval Criteria for Motor Vehicle Sales/Rental Uses.

- A. A new motor vehicle sales/rental use allowed by Table 18.120.1 that includes maintenance and repair activities as an accessory use requires a site development review or major modification application. The approval authority will approve or approve with conditions a site development review or major modification application when all of the applicable approval criteria listed in Chapter 18.780, Site Development Reviews, or Chapter 18.765, Modifications, are met.
- B. In addition to the approval criteria identified in Subsection 18.670.025.A above, the approval criteria listed below must be met when a new motor vehicle sales/rental use includes maintenance and repair activities as an accessory use and is located on a property identified in Paragraph 18.670.020.C.1 of this code.
 1. Any adverse impacts from the proposed maintenance and repair activities are mitigated to the extent practicable, including, but not limited to, noise, odors, and vibrations; and
 2. All customer vehicle drop-off areas associated with the proposed maintenance and repair activities are clearly identified and designed to prevent vehicle idling and queuing outside of a building; and
 3. The proposed maintenance and repair activities and associated driveways, accessways, drive aisles, and parking areas are located and designed to support pedestrian access, safety, and comfort.

(Ord. 21-16 §1)

§ 18.670.030. Uses.

Allowed, restricted and conditional uses are those uses allowed, allowed with restrictions, or allowed conditionally within the MUC, MUE-1, MUE-2, MUR-1 or MUR-2 zones provided in

Table 18.120.1.
(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.670.040. Development Standards.

- A. Compliance required. All development must comply with all applicable development standards provided in this title, except where an adjustment has been obtained in compliance with Chapter 18.715, Adjustments, and Subsections 18.670.040.C and D.
- B. Development standards. Development standards that apply within mixed-use zones in the Washington Square Regional Center Plan District are in Table 18.320.1 or in the development standards chapter for each housing type. Existing developments that do not meet the standards specified for a particular base zone may continue in existence and be altered subject to Section 18.670.050.
- C. Density for developments including or abutting riparian setback. Notwithstanding the density standards, the maximum residential density and mixed-use and nonresidential floor area ratio for developments that include or abut riparian setbacks is limited to less than 110 percent of the minimum residential density and floor area ratios in all mixed-use zones, except when the following are met:
 - 1. Wetlands within the development are expanded or enhanced in conformance with the Oregon Division of State Lands Wetlands Restoration and Enhancement Program, and if applicable;
 - 2. Fish habitat within the development is enhanced in conformance with the Oregon Division of State Lands Fish Habitat Enhancement Program, and if applicable;
 - 3. The overall flood storage capacity of the 100-year floodplain within the development is increased by 10 percent.If the enhancements described above are approved, or if enhancements are already in existence, the maximum residential density standards and no maximum floor area ratio standards for mixed-use and nonresidential developments apply.

- D. Adjustments to density. The density standards are designed to implement the goals and policies of the comprehensive plan. These requirements apply throughout the Washington Square Regional Center Plan District, but the city recognizes that some sites are difficult to develop or redevelop in compliance with these requirements. The adjustment process provides a mechanism by which the minimum density standards may be reduced by up to 25 percent of the original requirement if the proposed development continues to meet the intended purpose of the requirement and findings are made that all approval criteria are met. Adjustments provide flexibility for unusual situations and allow for alternative ways to meet the purpose of this title.

- 1. The approval authority will approve or approve with conditions an application for an adjustment when all of the following are met:
 - a. Granting the adjustment will equally or better meet the purpose of the regulation to be modified;
 - b. The proposal will be consistent with the desired character of the area;

- c. If more than one adjustment is being requested, the cumulative effect of the adjustments results in a development that is still consistent with the overall purpose of the zone; and
 - d. Any impacts resulting from the adjustment are mitigated to the maximum extent possible.
2. Adjustments are processed through a Type I procedure, as provided in Section 18.710.050, along with the land use application for development that has been filed.
 3. Adjustments are prohibited for the following items:
 - a. To allow a primary or accessory use that is not allowed by the regulations;
 - b. As an exception to any restrictions on uses or development that contain the words "prohibited" or "not allowed";
 - c. As an exception to a qualifying situation for a regulation, such as zones allowed or items being limited to new development;
 - d. As an exception to a definition or classification; or
 - e. As an exception to the procedural steps of a procedure or to change assigned procedures.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.670.050. Pre-Existing Uses and Developments.

Pre-existing dwelling units in mixed-use zones are allowed. Conversion of pre-existing dwelling units to other uses is subject to the requirements of this chapter. Notwithstanding the provisions of Section 18.50.040, pre-existing land uses and associated development that were lawfully in existence at the effective date of the Washington Square Regional Center Plan District are treated as lawful or approved uses and developments.

- A. Future additions, expansions, or enlargements to such uses or structures will be limited to the property area and use lawfully in existence at the effective date of this chapter. An addition, expansion, or enlargement of such lawfully pre-existing uses and structures up to 20 percent of the floor area lawfully in existence at the effective date of this chapter will be allowed provided the applicant of such proposed addition, expansion, or enlargement demonstrates substantial compliance with all applicable development standards in this title, or that the applicant demonstrates that the purposes of applicable development standards are addressed to the extent that the proposed addition, expansion, or enlargement allows.
- B. All additions, expansions, or enlargements of existing uses or structures that take place after using the 20 percent addition, expansion, or enlargement exception must be in compliance with the development standards of this title.
- C. If a pre-existing use is destroyed by fire, earthquake, or other natural disaster, then the use will retain its pre-existing status under this provision provided it is substantially reestablished within 3 years of the date of the loss. The new development must comply with this title.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

§ 18.670.060. Street Connectivity.

- A. Purpose. The standards provide a way for creating continuity and connectivity within the Washington Square Regional Center (WSRC). They provide incremental street and accessway development that is consistent with WSRC needs and regional and state planning principles for connectivity. The primary objective is to create a balanced, connected transportation system that distributes trips within the WSRC on a variety of streets.
- B. Demonstration of standards. All development must demonstrate how one of the following standard options will be met. Adjustments to these standards may be approved as provided in Chapter 18.715, Adjustments.
 - 1. Design option.
 - a. Local street spacing must provide public street connections at intervals of no more than 530 feet.
 - b. Bike and pedestrian connections on public easements or rights-of-way must be provided at intervals of no more than 330 feet.
 - 2. Performance option.
 - a. Local street spacing must occur at intervals of no less than 8 street intersections per mile.
 - b. The shortest vehicle trip over public streets from a major building entrance to a collector or greater facility is no more than twice the straight-line distance.
 - c. The shortest pedestrian trip on public right-of-way from a major building entrance to a collector or greater facility is no more than 1.5 times the straight-line distance.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.670.070. Site Design Standards.

- A. Compliance. All development must meet the following site design standards.
- B. Building placement on arterials and collectors.
 - 1. Purpose. Architecture helps define the character and quality of a street and can make a strong statement about the overall community and city at large. The placement and design of buildings provides the framework for the streetscape and defines the edges of the public right-of-way. Architecture and first-story uses can activate the street, either by its design presence or by those who come and go from it. At intersections, investing in building frontages can create gateways and special places that add to the character of the area.
 - 2. Standard. Buildings must occupy a minimum of 50 percent of all street frontages along arterial and collector streets. Buildings shall be located at public street intersections on arterial and collector streets.
- C. Building setback.

1. Purpose. Buildings and investment in architecture is most conspicuous when it is visible from the street. The presence of buildings closely sited at the edge of the right-of-way creates an envelope for the street and a sense of permanence.
2. Standard. The minimum and maximum building setback from public street rights-of-way must be in compliance with Table 18.320.1.

D. Front setback design.

1. Purpose. The front setback is the most conspicuous face of a building and requires special attention. Places for people and pedestrian movement helps create an active and safer street. Higher level of landscape anticipates a more immediate visual result.
2. Standard. For setbacks greater than 0 feet, landscaping, an arcade, or a hard-surfaced expansion of the pedestrian path must be provided between a structure and a public street or accessway. If a building abuts more than one street, the required improvements must be provided on all streets. Landscaping must comply with the applicable standard in Subsection 18.670.070.F. Hard-surfaced areas must be constructed with scored concrete or modular paving materials. Benches and other street furnishings are encouraged. These areas may contribute to the minimum landscape area standard provided in Table 18.320.1.

E. Walkway connection to building entrances.

1. Purpose. As density increases and employee and resident populations increase, it is expected that more people will move between businesses within the WSRC. Provisions should be made to encourage people to walk from business to business, and housing to business rather than use automobiles.
2. Standard. A walkway connection is required between a building's entrance and a public street or accessway. This walkway must be at least 6 feet wide and be paved with scored concrete or modular paving materials. Building entrances at a corner adjacent to a public street intersection are required. These areas may contribute to the minimum landscape area standard provided in Table 18.320.1.

F. Parking location and landscape design.

1. Purpose. The emphasis on pedestrian access and a high-quality streetscape experience requires that private parking lots that abut public streets should not be the predominant street feature. Where parking does abut public streets, high quality landscaping should screen parking from adjacent pedestrian areas.
2. Standard. Parking for buildings or phases adjacent to public street rights-of-way must be located to the side or rear of newly constructed buildings. When buildings or phases are adjacent to more than one public street, primary streets will be identified by the city where this requirement applies. In general, streets with higher functional classification will be identified as primary streets unless specific design or access factors favor another street. If located on the side, parking is limited to 50 percent of the primary street frontage. When abutting public streets, parking must be screened to the S-4 standard as provided in Table 18.420.2. All other site landscaping must be planted to the L-2 standard.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

§ 18.670.080. Building Design Standards.

- A. Compliance. All new buildings constructed in the MUC, MUE, and MUR zones within the WSRC must comply with the following design standards.
 - B. First-story windows.
 1. Purpose. Blank walls along the street frontage tend to be neglected and are not pedestrian friendly. Windows help keep "eyes on the street" that promote safety and security and can help create a lively street frontage by displaying activities and products within the building. Lighting at night from first-story windows also adds to the presence of activity and the sense that someone is home.
 2. Standard. All street-facing facades within the required building setback along public streets must include windows, doors, or display areas on a minimum of 50 percent of the first-story facade area. The first-story facade area is measured from 3 feet above grade to 9 feet above grade the entire length of the street-facing facade. Up to 50 percent of the first-story window requirement may be met on an adjoining facade provided the entire requirement is located at a building corner.
 - C. Building facades.
 1. Purpose. Straight, continuous, unarticulated walls lack interest, character, and personality. The standard provides minimum criteria for creating a diverse and interesting streetscape.
 2. Standard. Facades that face a public street must provide at least one of the following features at least every 50 feet:
 - a. A variation in building materials;
 - b. A building off-set of at least 1 foot;
 - c. A wall area that is entirely separated from other wall areas by a projection, such as an arcade; or
 - d. By another design features that reflect the building's structural system. Buildings greater than 300 feet in length must provide a pedestrian connection between or through the building.
 - D. Weather protection.
 1. Purpose. Weather protection is encouraged to create a better year-round pedestrian environment and to provide incentive for people to walk rather than drive.
 2. Standard. Weather protection for pedestrians, such as awnings, canopies, and arcades, must be provided at building entrances. Weather protection is encouraged along building frontages abutting a public sidewalk or a hard-surfaced expansion of a sidewalk, and along building frontages between a building entrance and a public street or accessway.
 - E. Building materials.
 1. Purpose. High quality construction and building materials suggest a level of

permanence and stature appropriate to a regional center.

2. Standard. Plain concrete block, plain concrete, corrugated metal, plywood, sheet press board, or vinyl siding are prohibited as exterior finish materials. Foundation material may be plain concrete or plain concrete block where the foundation material is not revealed for more than 2 feet.

F. Roofs and roof lines.

1. Purpose. Roof line systems that blur the line between the roof and the walls of buildings should be avoided. This standard simply states that roofing materials should be used on the roof and that wall finish materials should be used on building walls. The premise is that future buildings in the WSRC should have a look of permanence and quality.
2. Standard. Except in the case of a building entrance feature, roofs must be designed as an extension of the primary materials used for the building and should respect the building's structural system and architectural style. False fronts and false roofs are prohibited.

G. Roof-mounted equipment.

1. Purpose. Roof top equipment, if not screened properly, can detract from views of adjacent properties. Also, roofs and roof-mounted equipment can be the predominant view where buildings are down slope from public streets.
2. Standard. All roof-mounted equipment must be screened to the S-1 standard as provided in Section 18.420.050. Satellite dishes and other communication equipment must be set back or positioned on a roof so that exposure from adjacent public streets is minimized. Solar heating panels are exempt from this standard.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

§ 18.670.090. Signs.

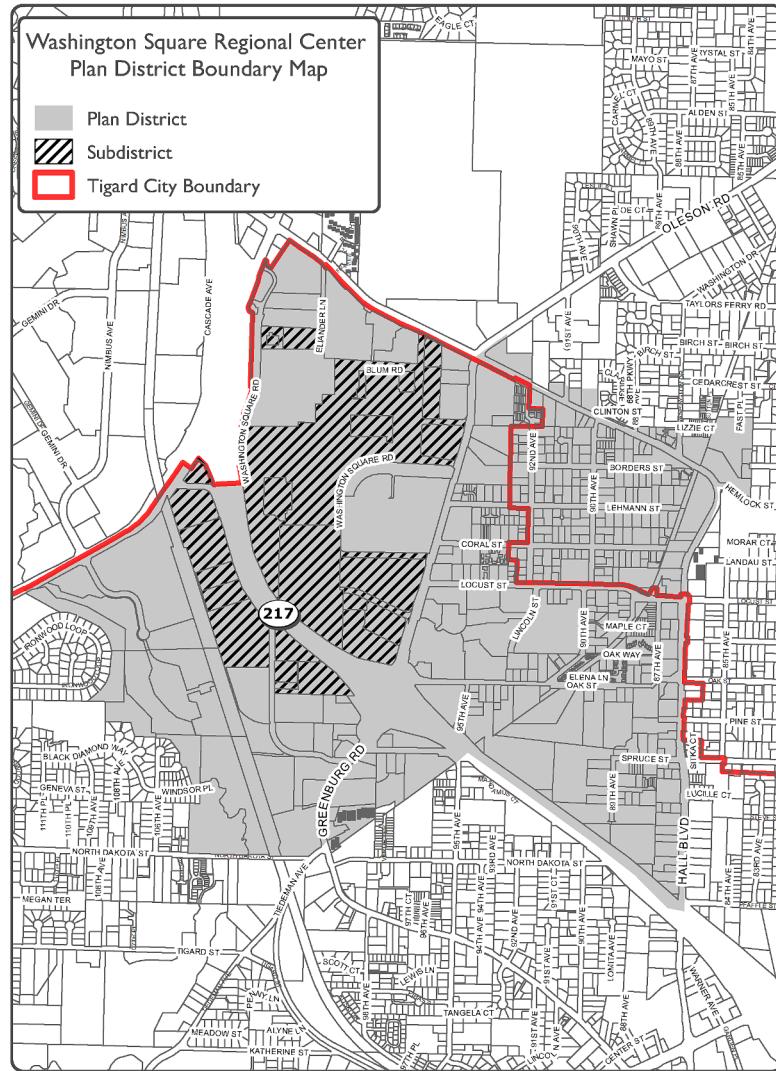
Signs. In addition to the requirements of Chapter 18.435, Signs, the following standards must be met:

- A. Residential-only developments within the MUC, MUE, and MUR zones must meet the sign requirements for residential zones as provided in Subsection 18.435.130.A; nonresidential developments within the MUC zone must meet the sign requirements for the C-G zone as provided in Subsection 18.435.130.B; nonresidential development within the MUE zones must meet the sign requirements of the C-P zone as provided in Subsection 18.435.130.C; and nonresidential development within the MUR zones must meet the sign requirements of the C-N zone as provided in Subsection 18.435.130.D. Sign area increases are prohibited.
- B. The maximum height limit for all signs except wall signs is 10 feet. Wall signs may not extend above the roofline of the wall on which the sign is located. Height increases are prohibited.
- C. Freestanding signs are prohibited within required S-4 screening.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.670.100. Street and Accessway Standards.

- A. The recommended roadway functional classification map and street cross-sections in the Washington Square Regional Center Plan govern the improvement and construction of major streets within the Washington Square Regional Center Plan District, with the exception of Oak Street as provided below.
- B. The following street design standards apply to Oak Street between Greenburg Rd and Hall Blvd.
 - 1. The cross section for the north side of the street must be consistent with Table 18.910.1 for collector streets, except that on-street parking is allowed and no bike lane is required; and
 - 2. The cross section for the south side of the street must be consistent with Table 18.910.1 for collector streets, except that on-street parking is allowed and a 12-foot-wide, grade-separated, multi-use path is required in lieu of a bike lane and sidewalk.

Map 18.670.A: Washington Square Regional Center Plan District Boundary

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 21-13 §2; Ord. 21-16 §1)

Part 18.700
LAND USE APPLICATIONS AND REVIEW TYPES

CHAPTER 18.710
Land Use Review Procedures

§ 18.710.010. Purpose.

The purpose of this chapter is to establish a standard review procedure for land use applications. This chapter is intended to make the land use review process clear and understandable, to facilitate timely review by the city, and to enable the public to participate in the local land use decision-making process.

(Ord. 17-22 §2; Ord. 22-06 §2)

§ 18.710.020. Summary of Land Use Applications.

Table 18.710.1
Summary of Land Use Applications

Abbreviation	Land Use Application Type	Applicable Section	Review Type
MIS	Adequate Public Facilities Exception (inside River Terrace)	18.640	II
ADJ	Adjustment		II
	- Inside River Terrace Plan District	18.640	
	- Inside Downtown Tigard Plan District	18.650	
	- Inside TMU zone	18.660	
	- Citywide	18.715	
ZCA	Annexation	18.720	III-Modified, Legislative
(N/A)	Appeal	18.710	III-various
CPA	Comprehensive Plan Map Amendment	18.790	III-Modified, Legislative
CPA	Comprehensive Plan Text Amendment	18.790	Legislative
CUP	Conditional Use	18.740	III-HO
DCA	Development Code Text Amendment	18.790	Legislative
DIR	Director Determination	18.730	I

Table 18.710.1
Summary of Land Use Applications

Abbreviation	Land Use Application Type	Applicable Section	Review Type
DDR	Downtown Development Review	18.650	I, II
(N/A)	Extension	18.745	I, II
MIS	Historic Resource Designation or Alteration	18.750	II, III-PC
HOP	Home Occupation Permit	18.760	I, II
MLP	Land Partition	18.820	II
LLA	Lot Line Adjustment or Lot Consolidation	18.810	I
MAR	Marijuana Facility Permit	18.430	I
MMD	Modification	18.765	
	- Minor		I
	- Major		II
PDR	Planned Development	18.770	II, III-PC
SLR	Sensitive Lands Review	18.510	I, II, III-HO
SGN	Sign Permit	18.435	I
SDR	Site Development Review	18.780	I, II
SUB	Subdivision	18.830	II
SBP	Sublot Plat	18.840	II-Modified
TUP	Temporary Use Permit	18.440	I
MIS	Transportation Mitigation (inside TMU zone)	18.660	II
UFR	Urban Forestry Plan Modification or Discretionary Review	18.420	I, III-HO, III-PC
ZON	Zoning Map Amendment	18.790	
	- Quasi-Judicial (site specific)		III-PC,

Table 18.710.1
Summary of Land Use Applications

Abbreviation	Land Use Application Type	Applicable Section	Review Type
	- Legislative (citywide)		III-Modified, Legislative

(Ord. 17-22 §2; Ord. 17-25 §3; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2; Ord. 22-10 §2)

§ 18.710.030. General Provisions.

- A. Pre-application conferences. A pre-application conference is required for all Type II and Type III applications, except for Home Occupations, Extensions, and Complex Tree Removals. The Director may waive the requirement for a pre-application conference. Legislative actions are exempt from a pre-application conference.
 - 1. To request a pre-application conference, a prospective applicant must submit a pre-application request form, a brief description of the proposed uses, and a site plan.
 - 2. When a pre-application conference is required, the prospective applicant must meet with the city for the purpose of identifying policies and regulations that relate to the proposed development, providing technical data and assistance that will aid the applicant, and identifying other opportunities or constraints that relate to the proposed development.
 - 3. Failure of the Director to provide any of the information required by this chapter does not constitute a waiver of the standards, criteria, or requirements of the applications.
 - 4. Due to possible changes in applicable law, the facts and circumstances of the property, and the information developed during the review process and other factors, information provided by the city during the pre-application conference is not binding. Applicants are solely responsible for demonstrating compliance with all applicable standards.
 - 5. The prospective applicant has one year from the date of the pre-application conference to submit a land use application for the proposed development.
- B. Neighborhood meetings. A prospective applicant must hold a neighborhood meeting prior to filing the following applications: comprehensive plan map amendment (quasi-judicial), conditional use, major modifications, planned development review, sensitive lands review (Type II and III), site development review (Type II), subdivision, and zoning map amendment (quasi-judicial).
 - 1. The location of the meeting must be open to the public and accessible in compliance with the Americans with Disabilities Act. The facility must be located as close to the proposed development site as possible.
 - 2. The meeting must be held in the evening on a Monday through Thursday.
 - 3. The prospective applicant must provide a written and posted notice for the meeting.

- a. A written notice to the city's interested parties list and property owners within 500 feet of the proposed development site must be mailed not less than two weeks but no more than four weeks from the date of the meeting. The notice must include:
 - i. Description and location of the proposal;
 - ii. Applicant contact information;
 - iii. Date, time and location of the meeting; and
 - iv. A vicinity map that clearly identifies the property or properties included in the proposal.
 - b. A notice must be posted at the proposed development site, not less than two weeks but not more than four weeks from the meeting date, in a location where the notice is visible from each street frontage. The notice must include:
 - i. Description and location of the proposal;
 - ii. Applicant contact information;
 - iii. Date, time and location of the meeting; and
 - iv. A vicinity map that clearly identifies the development site included in the proposal.
 - c. The prospective applicant must complete an affidavit of mailing and posting of the notice.
4. At the meeting, the prospective applicant must:
 - a. Read the "Statement of Purpose" letter provided by the city to the attendees;
 - b. Present the proposal, including at least a site plan;
 - c. Provide a handout with a contact name and phone number; and
 - d. Provide a sign in sheet to document the names and addresses of all individuals who attend the meeting and take meeting minutes of all comments, concerns, and issues raised at the meeting.
 5. The affidavits, meeting minutes, and other meeting materials must be submitted to the city with the application.
- C. Application submittal.
1. Applications may be initiated by:
 - a. All of the property owners, contract purchasers of the subject property, or any agent authorized to represent the property owners or contract purchasers. Easement holders are not considered owners for this section. If the subject property was divided without a partitioning or subdivision approval required by law at the time of the division, an application for approval of the land division may be filed by the owner, contract purchaser, or representative of one of the

- units of land created by the division;
- b. The Director;
 - c. Tigard City Council;
 - d. Tigard Planning Commission; or
 - e. A public entity that has the right of eminent domain for projects the entity has the authority to construct.
2. Multiple applications for a single proposed development will be consolidated unless the applicant specifies otherwise in the application. A concurrent application review consolidates the review of multiple applications into a single review process. The applications will be processed using the highest review type required for any part of the proposed development.
 3. The application must include, at a minimum, the following items. The Director may waive items listed if they are not applicable to the proposed application.
 - a. Application form, including signature of the property owner or public agency initiating the application.
 - b. Deed, title report, or other proof of ownership.
 - c. Detailed and comprehensive description of existing site conditions and all existing and proposed uses and structures, including a summary of all information contained in any site plans.
 - d. Narrative that demonstrates how the proposal meets all applicable approval criteria, regulations, and development standards.
 - e. Site plans, landscape plans, grading plans, elevation drawings, preliminary plat, final plat, or similar to scale.
 - f. Any other materials required by a specific land use application.
 - g. Any required service provider letters, including, but not limited to, clean water services, waste disposal company, or other entity.
 - h. Any required studies or reports, including, but not limited to, a traffic impact analysis, wetland delineation report, or geotechnical report.
 - i. Copy of any existing and proposed restrictions or covenants.
 - j. Payment of all fees, based on the fee schedule in effect at time of submittal, as adopted by City Council.
 - k. Copy of the pre-application conference notes, if applicable.
 - l. Copy of the mailed neighborhood meeting letter, the mailing list, affidavits of mailing and posting, copy of the meeting sign-in sheets, meeting minutes, and any handouts provided at the meeting, including the site plan, if applicable.
- D. Application completeness.

1. When the application is accepted, the Director will review the application for completeness. If the application is incomplete, the Director will notify the applicant of exactly what information is missing within 30 days of receipt of the application and allow the applicant to submit the missing information.
 2. The application will be deemed complete upon the receipt of:
 - a. All of the missing information;
 - b. Some of the missing information and a written notice from the applicant that no other information will be provided; or
 - c. Written notice from the applicant that none of the missing information will be provided.
 3. If the applicant does not submit the missing information or provide written notice that no additional information will be provided, the application will be deemed void on the 181st day after submittal.
- E. Modifications of applications. A modification of application means the applicant's submittal of new information after an application has been deemed complete and prior to close of the record on a pending application that would modify a development proposal by changing one or more of the following components: proposed uses, operating characteristics, intensity, scale, or site layout, in a manner that requires the application of new criteria to the proposal or that would require a substantial change to the findings of fact. It does not mean a submittal of new evidence that merely clarifies or supports the pending application.
1. A Type I or Type II application may be modified up until the decision is issued. A Type II application that is appealed or Type III application may be modified up until the close of the record.
 2. The approval authority will not consider any evidence submitted by the applicant that would constitute a modification of an application, as defined above, unless a new application is submitted for the modification. The modification constitutes a new application and restarts the 120-day clock for the application being modified.
 3. Prior to the first public hearing or if a hearing is not required, the Director will have sole authority to determine whether an applicant's submittal constitutes a modification. After such a time, the hearing authority will make such determination. The determination on whether a submittal constitutes a modification is appealable only to the Land Use Board of Appeals and only after a final decision on the application is issued.
- F. Amended decision process.
1. The purpose of an amended decision is to provide the Director the ability to correct typographical errors, rectify inadvertent omissions, or make other minor changes that do not materially alter the decision.
 2. The approval authority may issue an amended decision after the notice of final decision has been issued but before the appeal period has expired.

3. The notice of an amended decision is the same as that which applies to a Type II procedure, as provided in Section 18.710.060.
- G. Withdrawal of an application. An application may be withdrawn prior to issuance of a decision.
- H. Re-submittal of application following denial. Applications that have been denied, excluding applications denied solely on procedural grounds, may not be resubmitted for the same or a substantially similar proposal unless one or more of the following are met:
1. Twelve months has passed since the denial became final;
 2. Substantial changes are made to the application that resolve all findings for denial of the application; or
 3. Standards and criteria relative to the findings of the original denial have changed.
- I. Receipt of submittals. Any submittals for which a deadline is provided for in this chapter must be addressed to the recipient department designated in the notice and actually and physically received by the designated recipient department on or before the close of business on the due date, except that if the due date falls on a state or federal holiday, a regular weekday that the Community Development Department, or its successor, is not open for business, or a weekend, will be extended to the close of business on the next day that the department is open for business. Emails are considered received at the time shown on the city's email system. Submittals received after the deadline will not be considered or effective.
- J. Conformance with application. Unless provided otherwise in the decision, development must conform in all material respects to the approved application and submittals in support of the application.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.710.040. Types of Reviews.

- A. General. This section defines the review types and establishes the approval and appeal authority for each.
- B. Review types defined. There are four review procedure types: Type I, Type II, Type III, and Legislative. Table 18.710.1 contains the city's land use application types and associated review types. The review types are defined as follows:
1. Type I procedures apply to land use applications that are governed by clear and objective approval criteria or development standards that may require the exercise of professional judgment about technical issues only. Type I actions are decided by the Director without public notice and without a public hearing.
 2. Type II procedures apply to land use applications that are governed by subjective approval criteria or development standards that may require the exercise of limited discretion. Type II actions are decided by the Director with public notice. If any party with standing appeals a Type II decision, the appeal of such decision will be heard by the Hearings Officer.
 3. Type III procedures apply to land use applications that are governed by approval

criteria that require the exercise of discretion and judgment and about which there may be broad public interest. Type III applications are decided by the Hearings Officer (Type III-HO) or the Planning Commission (Type III-PC) with appeals to the City Council. Type III-Modified are decided by the City Council with a recommendation from the Planning Commission.

4. Legislative actions involve the establishment and modification of land use plans, policies, and regulations. The Legislative procedure includes two public hearings; the first by the Planning Commission and then by the City Council. The hearings provide opportunities for public comment and input on actions that may affect large areas of the city.
- C. Approval and appeal authorities. The approval and appeal authorities for each review type are provided in Table 18.710.2. The decision of the appeal authority is the city's final decision. Parties with standing may appeal the city's final decision to the Oregon Land Use Board of Appeals.

Table 18.710.2
Review Types and City Appeal Authorities

Review Type	Approval Authority	Appeal Authority
Type I	Community Development Director	None/Land Use Board of Appeals
Type II	Community Development Director	Hearings Officer
Type II-Modified	Community Development Director	Hearings Officer [1]
Type III-HO	Hearings Officer	City Council
Type III-PC	Planning Commission	City Council
Type III-Modified	City Council, with initial hearing and recommendation by Planning Commission	None/Land Use Board of Appeals
Legislative	City Council, with initial hearing and recommendation by Planning Commission	None/Land Use Board of Appeals

Notes:

[1]

Appeal procedures are subject to the provisions of ORS 197.375 in addition to the procedures of this chapter.

- D. Determination. The Director will determine the most appropriate review type for land use applications or actions requested. The Director determination is the final local decision and will favor the review type that provides the most appropriate public notice and opportunity for public comment.

E. Notice.

1. A failure of any person to receive actual notice that was mailed does not invalidate the decision or action. In all other cases, failure to receive notice or irregularities in providing notice is grounds for invalidation only if the party demonstrates substantial prejudice. The city may require re-notification, grant a continuance, or take other actions to avoid prejudice without requiring that a new application be filed.
2. The city may provide notice in excess of the minimum requirement.
3. Public notices required by this section will be sent to the names and addresses of owners as shown on the current Washington County property tax records. The boundary of the subject property includes all contiguous property under the same ownership of as the subject property. All notices will be deemed delivered on the date the notice is deposited in the U.S. Mail or personally delivered, whichever first occurs.

F. Burden of proof and procedural error.

1. Unless expressly provided otherwise in this title or by law, the applicant has the burden of proof to demonstrate compliance with all applicable criteria and standards, including on appeal.
2. Unless expressly identified as jurisdictional, failure to comply with a provision of this chapter invalidates an action only if the person alleging the error demonstrates that the error occurred and that person's substantial rights have been prejudiced.

G. Remanded and withdrawn decisions. The approval authority for a remanded or withdrawn decision will be the approval authority from which the appeal to the Land Use Board of Appeals was taken, except that in voluntary or stipulated remands, the City Council may decide that it will hear the case on remand.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.710.050. Type I Procedure.

- A. Decision requirements. The Director will approve, approve with conditions, or deny the requested application or action based on the applicable approval criteria and development standards.
- B. Final decision. The Director's decision is final for purposes of appeal on the date it is mailed or otherwise provided to the applicant, whichever occurs first. The Director's decision is not appealable locally and is the final decision of the city.
- C. Effective date. The Director's decision is effective on the day after it is final.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.710.060. Type II Procedure.

- A. Notice of application. The purpose of such notice is to provide nearby property owners and other interested parties with an opportunity to submit written comments concerning the application, prior to issuance of the decision. The goal of this notice is to invite parties of interest to participate early in the review process.

1. Prior to making a decision, a notice of application must be mailed to:
 - a. All owners of record within 500 feet of the proposed development site;
 - b. City's interested parties who have requested to receive notice of all land use notices;
 - c. Any city-recognized neighborhood group or community organization whose boundaries include the proposed development site; and
 - d. Any governmental agency that is entitled to notice.
 2. The Director will prepare an affidavit of mailing such notice that indicates the date that the notice was mailed to the necessary parties. The affidavit will be made part of the record.
 3. A notice of application must include:
 - a. An explanation of the application, including case number and the proposed use or uses that could be authorized;
 - b. A description of the proposed development site, including street address, map and tax lot number, or other easily understood geographical reference to the proposed development site and zoning designation;
 - c. List of criteria and development standards applicable to the application;
 - d. Include the name and telephone number of the city contact person to obtain additional information;
 - e. A statement that the city will consider written comments submitted prior to the issuance of the decision and the place, date, and time that comments are due;
 - f. Indicate that all evidence relied upon by the approval authority to make this decision is contained within the record and is available for public review. Copies of this evidence may be obtained from the Director;
 - g. Indicate that after the comment period closes, the approval authority will issue a decision; and
 - h. Contain the following notice: "Notice to mortgagee, lienholder, vendor, or seller: The Tigard Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
- B. Decision requirements. The approval authority will approve, approve with conditions, or deny the requested application based on the applicable approval criteria and development standards.
- C. Notice of decision.
1. Notice of decision must be mailed to the applicant and to all parties of record within seven days after the decision is signed by the approval authority.
 2. The Director will prepare an affidavit of mailing such notice that indicates the date that the notice was mailed to the necessary parties. The affidavit will be made part of

the record.

3. A notice of decision must include:
 - a. An explanation of the decision, including case number;
 - b. A description of the proposed development site, including street address, map and tax lot number, or other easily understood geographical reference to the proposed development site and zoning designation;
 - c. A statement that the complete case file is available for review, including when and where the case file is available and the name and telephone number of the city contact person to obtain additional information;
 - d. The date the decision will become final, unless appealed;
 - e. A statement that any person entitled to notice or who are adversely affected or aggrieved by the decision may appeal the decision; and
 - f. A statement briefly explaining how an appeal may be filed, the deadline for filing an appeal, and a reference to where further information about filing an appeal can be obtained.
- D. Final decision and effective date. A Type II decision is final for purposes of appeal on the date the notice is mailed. A Type II decision becomes effective on the day after the appeal period expires, unless an appeal is filed.
(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.710.070. Type II-Modified Procedure.

All applications subject to the Type II-Modified review will follow the procedures provided in Section 18.710.060, Type II Procedure, modified as provided in ORS 197.360 through 197.380 and as follows:

- A. Pre-application conferences are recommended, but the pre-application conference requirements of Subsection 18.710.030.A do not apply.
- B. The neighborhood meeting requirements of Subsection 18.710.030.B do not apply.
(Ord. 22-06 §2)

§ 18.710.080. Type III Procedure.

- A. Notice of hearing.
 1. A notice of hearing must be provided as follows:
 - a. At least 20 days prior to the hearing date, a notice of hearing must be mailed to:
 - i. The applicant and all owners or contract purchasers of record of the proposed development site;
 - ii. All property owners of record within 500 feet of the proposed development site;

- iii. City's interested parties who have requested to receive notice of all land use notices;
 - iv. Any city-recognized neighborhood group and community organizations whose boundaries include the proposed development site;
 - v. Any affected governmental agency that is entitled to such notice; and
 - vi. In actions involving appeals, the appellant and all parties to the appeal.
- b. The Director will prepare an affidavit of mailing such notice that indicates the date that the notice was mailed to the necessary parties. The affidavit will be made part of the record.
 - c. At least 14 days prior to the hearing date, a notice of the hearing must be posted on the proposed development site by the applicant. An affidavit of posting such notice must be prepared by the applicant and submitted as part of the record.
2. A mailed notice of hearing must include:
 - a. An explanation of the application, including case number and the proposed use or uses that could be authorized;
 - b. A description of the proposed development site, including street address, map and tax lot number, or other easily understood geographical reference to the proposed development site and zoning designation;
 - c. List of criteria and development standards applicable to the application;
 - d. Include the name and the telephone number of the city contact person to obtain additional information;
 - e. State the date, time, and location of the hearing;
 - f. State the failure to raise an issue at the hearing, in person, or by letter, or failure to provide statements or evidence sufficient to afford the approval authority an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;
 - g. State that a copy of the application and all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and that copies may be provided at a reasonable cost;
 - h. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and that a copy may be provided at a reasonable cost;
 - i. Include a general explanation of the requirements for submittal of testimony and the procedure for conducting hearings; and
 - j. Contain the following notice: "Notice to mortgagee, lienholder, vendor, or seller: The Tigard Development Code requires that if you receive this notice it shall be promptly forwarded to the purchaser."
 3. A posted notice of hearing must include:

- a. An explanation of the application, including case number and the proposed use or uses that could be authorized;
 - b. A description of the proposed development site, including street address, map and tax lot number, or other easily understood geographical reference to the proposed development site and zoning designation;
 - c. List of criteria and development standards applicable to the application;
 - d. Include the name and the telephone number of the city contact person to obtain additional information;
 - e. State the date, time, and location of the hearing;
 - f. State that a copy of the application and all documents and evidence submitted by or on behalf of the applicant and the applicable criteria are available for inspection at no cost and that copies may be provided at a reasonable cost; and
 - g. State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing, and that a copy may be provided at a reasonable cost.
- B. Hearing requirements. Hearings before the appropriate approval authority, as provided in Table 18.710.2, will be conducted in compliance with the quasi-judicial hearing requirements in Section 18.710.110.
 - C. Decision requirements. The approval authority will approve, approve with conditions, or deny the requested application based on the applicable approval criteria and development standards.
 - D. Notice of decision. Notice of decision must be mailed to the applicant and to all parties of record within seven days after the decision is filed by the approval authority with the Director. The notice must be provided in compliance with Paragraphs 18.710.060.C.2 and 3.
 - E. Final decision and effective date. The decision of a Type III application is final for purposes of appeal on the date the notice of decision is mailed. The decision is effective on the day after the appeal period expires, unless an appeal is filed.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.710.090. Type III-Modified Procedure.

All applications subject to the Type III-Modified review will follow the procedures provided in Section 18.710.080, except that the approval authority may remand the decision to the recommending body.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.710.100. Appeals.

A. Filing an appeal. A Type II or III decision may be appealed as follows:

1. The following parties have standing to appeal a decision:
 - a. The applicant;

- b. For appeals of a Type II decision, any person who is adversely affected or aggrieved or who was entitled to written notice of the Type II decision; and
 - c. Any party, who demonstrates that the person participated in the proceeding through the submittal of written or verbal testimony.
2. An appeal must be filed with the Director within 15 days of the date the notice of decision was mailed.
3. An appeal must include:
 - a. The date and case file number of the decision being appealed;
 - b. Documentation that the person filing the appeal has standing to appeal;
 - c. A detailed statement describing the basis of appeal; and
 - d. Payment of the required fee, based on the fee schedule in effect at time of submittal, as adopted by City Council. The fee is established by the Director. The maximum fee for an appeal hearing is the cost to the local government for preparing and for conducting the hearing, or the statutory maximum, whichever is less. Failure to timely pay the required fee is a jurisdictional defect.

B. Procedure for Type II and III appeals.

1. All appeals must provide notice of hearing in compliance with Type III notice requirements, as provided in Subsection 18.710.080.A.
2. Appeal hearings before the appropriate appeal authority, as provided in Table 18.710.2, will be conducted in compliance with the quasi-judicial hearing requirements in Section 18.710.110.
3. Appeal hearings are de novo. A de novo hearing allows for the presentation of new evidence, testimony, and argument by any party. The appeal authority will consider all relevant evidence, testimony, and argument that are provided at the hearing by the appellant or any party. The scope of the hearing is not limited to the issues that were raised on appeal.
4. The decision of the appeal authority is the final local decision and is final and effective on the date the decision is mailed.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.710.110. Quasi-Judicial Hearings.

- A. Procedures. The following procedures apply to all quasi-judicial hearings:
1. At the commencement of the hearing, a statement will be made to those in attendance that:
 - a. Lists the applicable substantive criteria;
 - b. States that testimony and evidence must be directed toward the relevant approval criteria described in the staff report, or other criteria in the plan or land use regulation that the person testifying believes to apply to the decision; and

- c. States that failure to raise an issue with sufficient specificity to afford the approval authority and the parties an opportunity to respond to the issue, precludes an appeal to the Land Use Board of Appeals on that issue and that failure of the applicant to object to a condition of approval may preclude an action for damages in circuit court.
2. Parties to a quasi-judicial hearing are entitled to an impartial hearing authority as free from potential conflicts of interest and pre-hearing ex parte contacts as reasonably possible. It is recognized, however, that the public has a countervailing right of free access to public officials; therefore:
 - a. Hearing authority members must disclose the substance of any pre-hearing ex parte contacts with regard to the matter at the commencement of the public hearing on the matter. The member must state whether the contact has impaired the impartiality or ability of the member to vote on the matter and provide the parties the right to rebut the substance of the communication. The member will participate or abstain accordingly.
 - b. Any member of the hearing authority may not participate in any proceeding or action in which any of the following has a direct or substantial financial interest: the member or member's spouse, brother, sister, child, parent, father-in-law, mother-in-law, or partner; any business in which the member is then serving or has served within the previous two years; or any business with which the member is negotiating for or has an arrangement or understanding concerning prospective partnership or employment. Any actual or potential interest must be disclosed at the meeting of the hearing authority where the action is being taken.
 - c. Disqualification of a hearing authority member due to contacts or conflict may be ordered by a majority of the members present and voting. The person who is the subject of the motion may not vote.
 - d. If all members abstain or are disqualified, the administrative rule of necessity will apply. All members present who declare their reasons for abstention or disqualification will thereby be re-qualified to act.
 - e. In cases involving the disqualification or recusal of a Hearings Officer, the city will provide a substitute Hearings Officer in a timely manner subject to the above impartiality rules.
3. Prior to the conclusion of the initial evidentiary hearing, any participant may request an opportunity to present additional relevant evidence or testimony. The local hearing authority may grant such request by continuing the public hearing in compliance with Subparagraph 18.710.110.A.4.a or by leaving the record open for additional written evidence or testimony as provided in Subparagraph 18.710.110.A.4.b.
4. If the hearing authority grants a continuance, the hearing will be continued to a date, time, and place certain at least seven days from the date of the initial evidentiary hearing. An opportunity will be provided at the continued hearing for persons to present and rebut new evidence and testimony. If new written evidence is submitted at the continued hearing, any person may request, prior to the conclusion of the continued hearing, that the record be left open for at least seven days, to submit additional written evidence or testimony for the purpose of responding to the new

written evidence.

5. If the hearing authority leaves the record open for additional written evidence or testimony, the record must be left open for at least seven days. Any participant may file a written request with the city for an opportunity to respond to new evidence submitted during the period the record was left open. If such a request is filed, the hearing authority must reopen the record in compliance with Paragraph 18.710.110.A.5.
 - a. A continuance or extension granted is subject to the limitations of ORS 227.178, unless the continuance or extension is requested or agreed to by the applicant;
 - b. Unless waived by the applicant, the city will allow the applicant at least seven days after the record is closed to all other parties to submit final written arguments in support of the application period. The applicant's final submittal will be considered part of the record but may not include any new evidence.

B. The record.

1. The record contains all testimony and evidence that is submitted and not rejected.
2. The hearing authority may take official notice of judicially cognizable facts in compliance with the applicable law. If the hearing authority takes official notice, it must announce its intention and allow the parties to the hearing to present evidence concerning the fact.
3. The hearing authority must retain custody of the record as appropriate, until a final decision is rendered.
4. When a hearing authority re-opens a record to admit new evidence, arguments, or testimony, any person may raise new issues that relate to the new evidence, arguments, or testimony, or criteria that apply to the matter at issue.

C. Ex parte communications.

1. Members of the hearing authority may not:
 - a. Communicate, directly or indirectly, with any party or representative of a party in connection with any issue involved in a hearing, except upon giving notice, and an opportunity for all parties to rebut the substance of the communication; or
 - b. Take notice of any communication, report, or other materials outside the record prepared by the proponents or opponents in connection with the particular case unless the parties are afforded an opportunity to contest the materials so noticed.
2. No decision or action of the hearing authority will be invalid due to ex parte contacts or bias resulting from ex parte contacts with a member of the approval authority if the member of the approval authority receiving contact:
 - a. Places on the record the substance of any written or oral ex parte communications concerning the decision or action; and
 - b. Makes a public announcement of the content of the communication and of the

parties' right to rebut the substance of the communication made at the first hearing following the communication where action will be considered or taken on the subject to which the communication is related.

3. Members of the hearing authority are subject to the provisions of ORS 244 and the provisions of this section.
 4. A communication between city staff and the hearing authority is not considered an ex parte contact.
- D. Presenting and receiving evidence.
1. The hearing authority may set reasonable time limits for oral presentations and may limit or exclude cumulative, repetitious, irrelevant, or personally derogatory testimony.
 2. Oral testimony will not be accepted after the close of the public hearing. Written testimony may be received after the close of the public hearing, but only in compliance with the schedule and procedure announced by the hearing authority prior to the close of the public hearing, or as otherwise provided by this section.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.710.120. Legislative Procedure.

Legislative actions typically involve adoption of an ordinance. In addition to any requirements imposed by the city charter, the following procedures apply. In the event of a conflict, the charter governs.

- A. Notice of hearing.
1. All Legislative applications require two hearings, one before the Planning Commission and one before the City Council.
 2. A notice of hearing will be provided as required by state law, and an affidavit of mailing will be included in the record that identifies the mailing date and the names and addresses of the mailing recipients.
- B. Hearing process and procedure. Unless otherwise provided in the rules of procedure adopted by the City Council, the presiding officer of the Planning Commission and of the City Council have the authority to:
1. Regulate the course, sequence, and decorum of the hearing;
 2. Dispose of procedural requirements or similar matters; and
 3. Impose reasonable time limits for oral presentations.
- C. Continuation of the public hearing. The Planning Commission or the City Council may continue any hearing and no additional notice is required if the matter is continued to a date, time and location certain.
- D. Adoption process and authority.
1. The Planning Commission may:

- a. After the public hearing, formulate a recommendation to the City Council to adopt, adopt with modifications, adopt an alternative, or deny the Legislative application; and
 - b. Within 14 days of determining a recommendation, the written recommendation must be signed by the presiding officer of the Planning Commission and filed with the Director.
2. The City Council may:
 - a. Adopt, adopt with modifications, adopt an alternative, deny, or remand to the Planning Commission for rehearing and reconsideration on all or part of the Legislative application;
 - b. Consider the recommendation of the Planning Commission, however, it is not bound by the Planning Commission's recommendation; and
 - c. Act by ordinance, which must be signed by the Mayor after the City Council's adoption of the ordinance.
- E. Vote.
1. A vote by a majority of the qualified voting members of the Planning Commission present is required for a recommendation for adoption, adoption with modifications, adoption of an alternative, or denial.
 2. The concurrence of a majority of the members of the City Council present and voting, when a quorum is present, is necessary to decide and question before the City Council.
- F. Notice of decision. Notice of decision must be mailed within seven days after the decision is filed with the Director to all persons who testified orally or in writing.
- G. Final decision and effective date. The decision of a Legislative application is final and effective on the date specified in the enacting ordinance.
- (Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.710.130. Special Procedures.

- A. Expedited land divisions. The expedited land division (ELD) procedure provides an alternative to the standard procedures for some land divisions. The applicant may choose to use the ELD process if the land division request meets all of the elements specified in ORS 197.360. The steps of this procedure are in ORS 197.365 through 197.375. The application submittal requirements are provided in Section 18.710.030.
- B. Limited land use decisions. A limited land use decision (LLD) is defined and may be used in the manner set forth in ORS 197.015(12).
1. An applicant who wishes to use an LLD procedure instead of the regular procedure type assigned to it, must request the use of the LLD at the time the application is filed, or forfeit their right to use it;
 2. An LLD will be reviewed in compliance with ORS 197.195. The city will follow the city's Type II procedure, as provided in Section 18.710.060, except to the extent

otherwise required by applicable state law.

C. Affordable housing developments. Applications for affordable housing developments qualify for a reduced review time of 100 days from the date the application is deemed complete, provided the following are met:

1. The application is for apartment or rowhouse development containing five or more dwelling units;
2. At least 50% of the dwelling units included in the development will be sold or rented as affordable to households with incomes equal to or less than 60% of the median family income for Washington County, or for the state, whichever is greater; and
3. The development is conditioned on the recording of a covenant appurtenant, prior to the issuance of a certificate of occupancy, that prohibits the sale or rental of any affordable dwelling unit used to meet the standard of Paragraph 18.710.130.C.2, except as housing that meets that standard, for a period of 60 years from the date of the certificate of occupancy.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

CHAPTER 18.715 **Adjustments**

§ 18.715.010. Purpose.

The purpose of this chapter is to provide an appropriate and efficient review process for granting relief from the specific requirements of this title to allow reasonable development or prevent undue hardship. Adjustments are intended to provide limited flexibility for development to address the requirements of this title through alternative or innovative means.

(Ord. 18-28 §1)

§ 18.715.020. Applicability.

- A. Applicability. This chapter applies to all proposals to adjust an existing requirement of this title. All requirements, such as development or design standards, may be adjusted except as provided in Subsection 18.715.020.B or where specifically provided for elsewhere in this title, such as in Chapter 18.660, Tigard Triangle Plan District.
- B. Prohibited adjustments. Adjustments are prohibited in the following situations:
 1. To allow a primary or accessory use that is prohibited;
 2. To change or eliminate a regulation that contains an express prohibition;
 3. To change or eliminate a threshold for a review;
 4. To change or eliminate any part of an approval process, including approval periods;
 5. To change a definition, a method of measurement, or the description of a use category;
 6. To change or eliminate any regulations in Chapter 18.510, Sensitive Lands; or
 7. To change the required density for a housing type in a residential zone.

(Ord. 18-28 §1)

§ 18.715.030. General Provisions.

- A. An applicant may seek relief from the specific requirements of this title through one of two types of adjustments. An applicant may either demonstrate that a proposed adjustment will result in development that is in substantial compliance with this title or that a hardship exists and a proposed adjustment is necessary to preclude all reasonable economic use of the property.
- B. Multiple adjustment proposals will be processed concurrently.

(Ord. 18-28 §1)

§ 18.715.040. Approval Process.

An adjustment application is processed through a Type II procedure as provided in Section 18.710.060.

(Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1)

§ 18.715.050. Approval Criteria.

The approval authority will approve or approve with conditions an adjustment application when all of the criteria in either Subsection 18.715.050.A or B are met.

A. Criteria for demonstrating substantial compliance.

1. The proposed adjustment results in development that is generally consistent with the purpose of the development standard to be adjusted; and
 - a. Has only minor impacts on surrounding properties or public facilities, or
 - b. Addresses a site constraint or unusual situation, or
 - c. Utilizes innovative design or results in sustainable development;
2. The proposed adjustment does not have a greater impact on city-designated sensitive lands than would otherwise occur if the adjustment was not approved; and
3. If the proposed adjustment addresses a site constraint or unusual situation, utilizes innovative design, or results in sustainable development, any impacts from the proposed adjustment are mitigated to the extent practicable; and
4. If more than one adjustment is proposed, the cumulative effect of the adjustments results in development that is generally consistent with the existing development pattern of the surrounding area and the overall purpose of the base zone.

B. Criteria for demonstrating hardship.

1. Application of the development standard proposed for adjustment would preclude all reasonable economic use of the property;
2. The need for the proposed adjustment is the result of conditions or circumstances outside the control of the applicant or property owner;
3. The proposed adjustment results in development that equally or better meets the purpose of the development standard to be modified; and
4. Any impacts from the proposed adjustment are mitigated to the extent practicable.

(Ord. 18-28 §1; Ord. 20-01 §1)

CHAPTER 18.720 **Annexations**

§ 18.720.010. Purpose.

The purpose of this chapter is to establish procedures and criteria for annexations, under the provisions of Metro Code Chapter 3.09 and Oregon Revised Statutes including, but not limited to, ORS Chapter 222. The provisions of this chapter are intended to achieve the orderly and efficient annexation of lands to the city that will result in providing a complete range of urban services and consistency with the comprehensive plan.

(Ord. 17-22 §2)

§ 18.720.020. Approval Process.

- A. A quasi-judicial annexation application is processed through a Type III-Modified procedure, as provided in Section 18.710.090. Quasi-judicial annexations are decided by the City Council with a recommendation by Planning Commission.
- B. A legislative annexation application is processed through the Legislative procedure, as provided in Section 18.710.120.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.720.030. Approval Criteria.

- A. Approval criteria. The approval authority will approve or approve with modification an annexation application when all of the following are met:
 1. The annexation complies with Metro Code 3.09; and
 2. The annexation is in the city's best interest.
- B. Assignment of comprehensive plan and zoning designations. The comprehensive plan designation and the zoning designation placed on the property is the city's base zone that most closely implements the city's or county's comprehensive plan map designation. The assignment of these designations occurs automatically and concurrently with the annexation. In the case of land that carries county designations, the city will convert the county's comprehensive plan map and zoning designations to the city designations that are the most similar. A zone change is required if the applicant requests a comprehensive plan map or zoning map designation other than the existing designations. A request for a zone change may be processed concurrently with an annexation application or after the annexation has been approved. Within the Washington Square Regional Center, the assignment of city comprehensive plan and zoning designations will be as provided in the Washington Square Regional Center Phase II Implementation Plan, dated June 29, 2001, Figure 4 Adopted Zoning Designations.
- C. Conversion table. Table 18.720.1 summarizes the conversion of the county's plan and zoning designations to city designations that are most similar.

Table 18.720.1
Conversion Table for County and City Comprehensive Plan and Zoning Designations

Washington County Land Use Districts/Plan Designation	City of Tigard Zoning	City of Tigard Zone Name
R-5 Res. 5 units per acre	RES-B	Residential-B
R-6 Res. 6 units per acre	RES-C	Residential-C
R-9 Res. 9 units per acre	RES-D	Residential-D
R-15 Res. 15 units per acre	RES-E	Residential-E
R-24 Res. 24 units per acre	RES-E	Residential-E
Office Commercial (OC)	C-P	Professional/Administrative Commercial
Neighborhood Commercial (NC)	C-N	Neighborhood Commercial
General Commercial (GC)	C-G	General Commercial
Industrial (IND)	I-L	Light Industrial
Institutional (INST)	Equivalent to adjacent County base zone	Equivalent to adjacent County base zone

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

CHAPTER 18.730 **Director Determinations**

§ 18.730.010. Purpose.

The purpose of director determinations is to resolve situations where terms or phrases within this title are ambiguous or subject to two or more reasonable meanings as applied to a specific property or use, or where this title contains a specific provision for a director determination.
(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.730.020. Applicability.

Director determinations may be issued for the following:

- A. An interpretation of any term or phrase in this title.
 - B. A determination of a nonconforming use, an unlisted use, modification of certain conditions of approval, reasonable accommodation, zone boundary, or as otherwise provided in this title.
- (Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.730.030. General Provisions.

- A. Director's authority to initiate. The director may initiate a Director determination on behalf of the city, either specific or not specific to a particular property or circumstance. The Director may also initiate a Director determination when there is a reasonable dispute or lack of clarity regarding allowed uses on a property. If initiated by the director, no application form or payment are required.
 - B. Director's authority to decline an application. The Director may decline to issue a Director determination. If an application for a Director determination is declined, the Director will respond within 14 days following the date of the request. The Director's decision to decline an application is final when the decision is mailed to the party requesting the determination. The decision to decline to issue a director determination is the city's final local decision.
- (Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.730.040. Approval Process.

A Director determination application is processed through a Type I procedure, as provided in Section 18.710.050.

(Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1)

§ 18.730.050. Approval Criteria.

A Director determination has no specific approval criteria, except in the following cases:

- A. The criteria for determination of a nonconforming use are provided in Section 18.50.030.
- B. The criteria for determination of an unlisted use are provided in Subsection 18.60.030.C.
- C. The criteria for modification of an original condition of approval are provided in Paragraph 18.20.050.E.4.

D. The criteria for determination of a zone boundary are provided in Subsection 18.10.050.C.
(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

CHAPTER 18.740 **Conditional Uses**

§ 18.740.010. Purpose.

The purpose of this chapter is to provide an appropriate review process for evaluating and establishing conditional uses to ensure that they are appropriately located within the community, reasonably compatible with surrounding uses, and advancing the community's vision to become a walkable, healthy, and inclusive city.

Conditional uses are not allowed by right. Although they may serve important public and private interests, conditional uses are subject to conditional use review because their size, operation, or characteristics require case-by-case evaluation to identify and mitigate impacts to surrounding properties, public facilities, or the environment. A conditional use approval does not constitute a zone change and is subject to any modifications, conditions, or restrictions deemed appropriate by the approval authority.

(Ord. 18-28 §1)

§ 18.740.020. Applicability.

This chapter applies to all new or existing uses identified in this title as conditional uses.

(Ord. 18-28 §1)

§ 18.740.030. General Provisions.

- A. Conditional use approval is required to establish a new conditional use or to substantially redevelop an existing conditional use. Substantial redevelopment is defined as a proposal that involves substantial changes to uses, structures, site improvements, operating characteristics, or original findings of fact.
- B. Conditional use approvals do not expire once utilized, except through discontinuation as described in Section 18.740.080.
- C. Conditional use approvals or existing conditional uses may be modified as allowed by Chapter 18.765, Modifications.

(Ord. 18-28 §1)

§ 18.740.040. Approval Process.

A conditional use application is processed through a Type III-HO procedure as provided in Section 18.710.080.

(Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.740.050. Approval Criteria.

The approval authority will approve or approve with conditions a conditional use application when all of the following criteria are met:

- A. The characteristics of the site are suitable for the proposed development or use considering size, shape, location, topography, and natural features;
- B. The operating characteristics of the proposed use are reasonably compatible with

surrounding properties, public facilities, or sensitive lands with regard to noise, vibration, air quality, glare, odor, and dust;

- C. The physical characteristics of the proposed development are reasonably compatible with surrounding properties, public facilities, or sensitive lands with regard to building height, location, and orientation;
- D. Any adverse impacts from the proposed development or use are mitigated to the extent practicable;
- E. The proposed development is located and designed to support pedestrian access, safety, and comfort on and adjacent to the site where practicable;
- F. The proposed development complies with all applicable standards and requirements of this title, except where an adjustment has been approved or the approval authority has determined that a more restrictive development or design standard is necessary to address issues of compatibility or walkability; and
- G. Adequate public facilities are available to serve the proposed development or use at the time of occupancy.

(Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1)

§ 18.740.060. Conditions of Approval.

The approval authority may impose conditions of approval on the proposed development or use that are suitable and necessary to meet the approval criteria and to ensure compatibility with surrounding properties, protect the public from adverse impacts, or advance the community's vision to become a walkable, healthy, and inclusive city. Conditions may include but are not limited to the following:

- A. Limiting the hours, days, place, and manner of operation;
- B. Requiring design features that minimize adverse operational impacts such as those caused by noise, vibration, air pollution, glare, odor, and dust;
- C. Requiring the protection and preservation of existing trees, vegetation, land forms, and habitat areas or limiting lot coverage;
- D. Requiring pedestrian access or improvements within the development or between the development and the surrounding community;
- E. Requiring additional landscaping or screening of structures, off-street parking, or service areas;
- F. Requiring or limiting the location, intensity, and shielding of outdoor lighting; or
- G. Requiring or limiting the size, height, location, and materials of fences.

(Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.740.070. Pre-Existing Conditional Uses.

- A. A pre-existing conditional use is any established use currently identified in this title as a conditional use where the use was not initially subject to city regulations when established, but became subject to city regulations through annexation or incorporation. A pre-existing

conditional use is the same as an approved conditional use for purposes of this chapter.

- B. A pre-existing conditional use is not a nonconforming use and is therefore not subject to the provisions of Chapter 18.50, Nonconforming Circumstances. However, any nonconforming development associated with a pre-existing conditional use is subject to the provisions of Chapter 18.50, Nonconforming Circumstances.

(Ord. 18-28 §1)

§ 18.740.080. Discontinuation of Existing Conditional Uses.

A conditional use automatically loses its conditional use status when either of the following occurs:

- A. The property owner replaces the conditional use with a use allowed by right or obtains approval to establish a different conditional use; or
- B. The conditional use is discontinued for more than one year. Calculation of the one-year period begins on the earliest date that any of the following events occurs:
1. The conditional use physically vacates the location where it was approved to operate;
 2. The conditional use ceases to provide the service or activity that was the subject of the conditional use approval;
 3. The lease or contract allowing the conditional use to operate at the approved location is terminated; or
 4. A final reading of the water or power meter serving the conditional use is made by the applicable utility provider.

(Ord. 18-28 §1)

CHAPTER 18.745 Extensions

§ 18.745.010. Purpose.

The purpose of this chapter is to provide an appropriate and efficient review process for extending the time period during which land use approvals are valid and may be utilized.
(Ord. 18-28 §1)

§ 18.745.020. Applicability.

- A. This chapter applies to all approved land use applications that are subject to expiration as described in Subsection 18.20.050.G but have not yet expired.
- B. This chapter does not apply to approved land use applications that are expired or where an extension is prohibited or otherwise provided for in another chapter of this title.
(Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.745.030. General Provisions.

- A. An approved land use application is eligible for one extension.
- B. A complete extension application must be submitted prior to the expiration date of the original approval, but no earlier than 6 months in advance of the expiration date.
- C. An extension application may not include a proposal to modify the original application or any conditions of approval.
- D. If an extension is approved, the expiration date for the original approval is extended an additional 2 years from the effective date of the original approval.
- E. If the original approval included multiple applications, a single extension application may include all applications associated with the original approval.
(Ord. 18-28 §1)

§ 18.745.040. Approval Process.

- A. If the original approval was processed through a Type I procedure, an extension application is processed through a Type I procedure, as provided in Section 18.710.050.
- B. If the original approval was processed through a Type II or Type III procedure, an extension application is processed through a Type II procedure, as provided in Section 18.710.060.
(Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.745.050. Approval Criteria.

The approval authority will approve an extension application when all of the following criteria are met:

- A. A good faith effort was made to utilize the approval within the specified time period and the need for the extension is the result of conditions or circumstances outside the control of the applicant or property owner; and

- B. If the original application included a transportation impact study or a sensitive lands report, an updated report was provided with the extension application that showed no significant changes on or near the development site. A letter from a recognized professional satisfies this criterion if it states that conditions have not changed since the approval of the original application and no new analysis is warranted.

(Ord. 18-28 §1)

CHAPTER 18.750 **Historic Resources**

§ 18.750.010. Purpose.

The purpose of this chapter is to:

- A. Facilitate the protection, enhancement, and perpetuation of historic resources that represent or reflect elements of the city's cultural, social, economic, political, and architectural history;
- B. Enhance any registered historic or cultural resources designated in the city;
- C. Stabilize and improve property values;
- D. Strengthen the economy of the city;
- E. Promote the use of historic resources for the education, pleasure, energy conservation, housing, and public welfare of the city; and
- F. Implement the applicable provisions of Oregon Department of Land Conservation and Development Goal 5 and the City of Tigard Comprehensive Plan.

(Ord. 17-22 §2)

§ 18.750.020. Applicability.

- A. Designated areas. The Historic Resource Overlay zone applies to the following sites and areas:
 1. Historic sites and areas;
 2. Cultural sites and areas; and
 3. Landmarks.
- B. Designated activities. The provisions of this chapter apply to:
 1. The designation of Historic Resource Overlay zones,
 2. The removal of Historic Resource Overlay zones,
 3. The demolition of structures within a Historic Resource Overlay zone, and
 4. The exterior alteration of structures or new construction within a Historic Resource Overlay zone.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.750.030. General Provisions.

- A. Approval of exterior alterations. Exterior alterations of any structure in a Historic Resource Overlay zone or construction of any new structure in a Historic Resource Overlay zone without approval is prohibited, except as provided in Subsections 18.750.040.C and D, respectively.
- B. Approval of demolition. Demolition of a structure located within a Historic Resource

Overlay zone without approval under the provisions of this chapter is prohibited.

C. Exemptions.

1. Exterior remodeling, as governed by this chapter, includes any change or alteration in design or other exterior treatment excluding painting;
2. Nothing in this chapter prevents the ordinary maintenance or repair of any architectural features that does not involve a change in design, material, or the outward appearance of such feature, which the building official must certify is required for the public safety because of its unsafe or dangerous condition.

D. Condition of approval. If any alteration or demolition of a historic resource is approved through the provisions of this chapter, a condition of approval must be applied that allows the Washington County Museum to obtain:

1. A pictorial and graphic history of the resource; and
2. Artifacts from the resource it deems worthy of preservation.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.750.040. Approval Process and Approval Criteria.

A. Criteria for Historic Resource Overlay zone designation.

1. An application for a Historic Resource Overlay zone designation is processed through a Type III-PC procedure, as provided in Section 18.710.080. The approval authority will approve the application when any of the following are met:
 - a. The proposed site or area would serve the purpose of the Historic Resource Overlay zone as stated in Section 18.750.010;
 - b. The site or area proposed for the designation reflects the broad cultural or natural history of the community, state, or nation;
 - c. The site or area is identified with historic personages, or with important events in national, state, or local history;
 - d. The site or area proposed for the designation embodies the distinguishing characteristics of an architectural specimen inherently valuable for a study of a period, style, or method of construction; or
 - e. The proposed site or area is a notable work of a master builder, designer, or architect.
2. The age of a specific building is not sufficient in itself to warrant designation as historic.

B. Criteria for removal of Historic Resource Overlay zone designation. An application for removal of a Historic Resource Overlay zone designation is processed through a Type III-PC procedure, as provided in Section 18.710.080. The approval authority will approve the application when any of the following are met:

1. The original Historic Resource Overlay zone designation was placed on the site in

error;

2. The resource designated with the Historic Resource Overlay zone designation has ceased to exist;
3. The resource designated with the Historic Resource Overlay zone designation is no longer of significance to the public; or
4. The Historic Resource Overlay zone designation is causing the property owner to bear an unfair economic burden to maintain the property as a historic or cultural resource.

C. Criteria for exterior alterations. An application for exterior alterations of structures in a Historic Resource Overlay zone is processed through a Type II procedure, as provided in Section 18.710.060. The approval authority will approve or approve with conditions the application when all of the following are met:

1. The purpose of the Historic Resource Overlay zone provided in Section 18.750.010;
2. The economic use of the structure in a Historic Resource Overlay zone and the reasonableness of the proposed alteration and their relationship to the public interest in the structure's or landmark's preservation or renovation;
3. The value and significance of the structure or landmark in a Historic Resource Overlay zone;
4. The physical condition of the structure or landmark in a Historic Resource Overlay zone; and
5. The general compatibility of exterior design, arrangement, proportion, detail, scale, color, texture, and materials proposed to be used with an existing structure in a Historic Resource Overlay zone.

D. Criteria for construction of new structures. An application for construction of new structures in a Historic Resource Overlay zone is processed through a Type II procedure, as provided in Section 18.710.060. The approval authority will approve or approve with conditions the application when all of the following are met:

1. The purpose of the Historic Resource Overlay zone as provided in Section 18.750.010;
2. The economic effect of the new structure on the historic value of the Historic Resource Overlay zone;
3. The visual effect of the proposed new structure on the architectural character of the Historic Resource Overlay zone; and
4. The general compatibility of the exterior design, arrangement, proportion, detail, scale, color, texture and materials proposed to be used in the construction of the new structure.

E. Criteria for demolition. An application for demolition of structures in a Historic Resource Overlay zone is processed through a Type II procedure, as provided in Section 18.710.060. The approval authority will approve or approve with conditions the application when all of the following are met:

1. The purpose of the Historic Resource Overlay zone as provided in Section 18.750.010;
2. The criteria used in the original designation of the Historic Resource Overlay zone in which the property under consideration is situated;
3. The historical and architectural style, the general design, arrangement, materials of the structure in question, or its appurtenant fixtures; the relationship of such features to similar features of the other buildings within the Historic Resource Overlay zone; and the position of the building or structure in relation to public rights-of-way, and to other buildings and structures in the area;
4. The effects of the proposed work upon the protection, enhancement, perpetuation, and use of the Historic Resource Overlay zone that cause it to possess a special character or special historical or aesthetic interest or value; and
5. Whether denial of the permit will subject the city to potential liability, involve substantial hardship to the applicant, and whether issuance of the permit would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this title.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

CHAPTER 18.760 **Home Occupations**

§ 18.760.010. Purpose.

It is the purpose of this chapter to:

- A. Allow residents an opportunity to use their homes to engage in small-scale business ventures that could not be sustained if it were necessary to lease commercial quarters, or because the nature of the activity would make it impractical to expand to a full-scale enterprise; and
- B. Establish approval standards to ensure that home occupations are conducted as lawful uses that are subordinate to the residential use of the property and are conducted in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.760.020. Applicability.

- A. Applicability. The provisions of this chapter apply to any accessory commercial use associated with a primary Household Living use.
- B. Exemptions. The following activities and uses are exempt from the provisions of this chapter:
 1. Garage sales;
 2. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products;
 3. Family day care uses;
 4. Hobbies that do not result in payment to those engaged in such activity; and
 5. Legal nonconforming home occupations as provided in Section 18.760.090.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-09 §2)

§ 18.760.030. Approval Process.

- A. Type I home occupations. A Type I home occupation application is processed through a Type I procedure, as provided in Section 18.710.050.
- B. Type II home occupation permit. A Type II home occupation application is processed through a Type II procedure, as provided in Section 18.710.060.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1; Ord. 20-01 §1)

§ 18.760.040. Approval Criteria.

The approval authority will approve or approve with conditions a home occupation application when all of the applicable general provisions in Section 18.760.050 and approval standards in Section 18.760.060 are met.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1)

§ 18.760.050. General Provisions.

All home occupations except legal nonconforming home occupations must comply with all of the following in addition to the approval standards for Type I and Type II home occupations provided in Section 18.760.060.

- A. Home occupations may be undertaken only by a principal occupant of a dwelling unit.
- B. Deliveries to the residence by suppliers are limited to 3 per week.
- C. The home occupation must comply with all provisions of Title 6 of the Tigard Municipal Code.
- D. The home occupation must be operated entirely within the dwelling unit or a conforming accessory structure. The maximum square footage used for the home occupation and associated storage of materials and products is 25 percent of the combined residence and accessory structure floor area or 528 square feet, whichever is smaller. All indoor storage of materials or products must meet the provisions of the building, fire, health, and housing codes.
- E. A home occupation may not necessitate a change in the state building code use classification of a dwelling unit. Any accessory building that is used must meet building code requirements.
- F. A dwelling unit may have more than one home occupation, provided that the combined floor area used for the home occupations does not exceed the square footage limitation imposed in Subsection 18.760.040.D. Each home occupation must apply for a separate home occupation permit, if required by this chapter.
- G. The following activities are prohibited as part of a home occupation:
 1. Storage or distribution of toxic, flammable, or explosive materials, and
 2. Spray painting or spray finishing operations that involve toxic or flammable materials that in the judgment of the fire marshal pose a dangerous risk to the residence, its occupants, or surrounding properties.
- H. Additional parking is not required for home occupations.
- I. The following activities are not allowed as home occupations:
 1. Motor vehicle repair and painting;
 2. Mechanical repair conducted outside of an entirely-enclosed building;
 3. Junk and salvage operations; and
 4. Storage or sale of fireworks.
- J. Exterior storage of commercial vehicles, as defined in the Oregon Vehicle Code, is prohibited, except that 1 commercially licensed vehicle of not more than 0.75 ton gross vehicle weight (GVW) may be parked outside of a structure.

(Ord. 19-09 §1; Ord. 20-01 §1)

§ 18.760.060. Approval Standards.

- A. Type I home occupations. Type I home occupations must comply with the following:
 1. Outside volunteers or employees are prohibited on the premises. Only members of the household may be engaged in the business activity;
 2. Exterior signs that identify the property as a business location are prohibited;
 3. Clients or customers are prohibited from visiting the premises for any reason; and
 4. Exterior storage of materials is prohibited.
- B. Type II home occupations. Type II home occupations must comply with the following:
 1. One non-illuminated sign not exceeding 1.5 square feet is allowed. The sign may be attached to the residence or an accessory structure, or be placed in a window;
 2. Only 1 outside volunteer or employee who is not a member of the household is allowed on the premises;
 3. Type II home occupations are not allowed on lots with cottage cluster, courtyard unit, or quad development, or on a lot with more than one accessory dwelling unit.
 4. Up to 6 daily customers or clients are allowed. Customers and clients are prohibited from visiting the business between the hours of 10 p.m. and 8 a.m.; and
 5. Storage areas for materials, goods, and equipment must be screened entirely from view by a solid fence. Storage must not exceed 5 percent of the total lot area and is prohibited within front or side setbacks.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1)

§ 18.760.070. Conditions of Approval.

The approval authority may impose conditions upon the approval of a Type II home occupation permit to ensure compliance with the requirements of this chapter. These conditions may include, but are not limited to, the following:

- A. Further limiting the hours, days, place, and manner of operation;
- B. Requiring site and building design features that minimize environmental impacts such as noise, vibration, air pollution, glare, odor, and dust;
- C. Requiring additional building setbacks, or increased lot area, depth, or width;
- D. Further limiting the building area and outdoor storage used by the home occupation and restricting the location of the use on the site in relationship to adjoining uses;
- E. Designating the size, number, location, and design of vehicle access points;
- F. Requiring street right-of-way to be free at all times of vehicles parked in association with the home occupation;
- G. Requiring landscaping, buffering, or screening of the home occupation from adjoining uses and establishing standards for the continued maintenance of these improvements;
- H. Requiring storm drainage improvements and surfacing of parking and loading areas;

- I. Limiting the extent and type of interior or exterior building remodeling necessary to accommodate the home occupation;
 - J. Limiting or setting standards for the location and intensity of outdoor lighting;
 - K. Requiring and designating the size, height, and location of fences and materials used for their construction;
 - L. Requiring the protection and preservation of existing trees, vegetation, watercourses, slopes, wildlife habitat areas, and drainage areas;
 - M. Limiting the type and number of vehicles or equipment to be parked or stored on the site; or
 - N. Any other limitations that the approval authority considers to be necessary or desirable to make the use comply with the purposes of this chapter and the underlying base zone.
- (Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1)

§ 18.760.080. Revocation of Home Occupation Permits.

- A. Grounds for revocation. The Director may:
 - 1. Revoke a home occupation approval if the conditions of approval have not been or are not being complied with and the home occupation is otherwise being conducted in a manner contrary to this chapter.
 - 2. The Director may approve the use as it exists, revoke the home occupation permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this chapter after reviewing a complaint. Complaints may be originated by the City of Tigard or the public. Complaints from the public must clearly state the objection to the home occupation, such as:
 - a. Generation of excessive traffic;
 - b. Exclusive use of on-street parking spaces; or
 - c. Other offensive activities not compatible with a residential neighborhood.
 - B. Cessation of home occupation pending review. If it is determined by the Director in exercise of reasonable discretion, that the home occupation in question will affect public health and safety, the use may be ordered to cease pending hearings officer review or exhaustion of all appeals.
 - C. Waiting period for re-application. When a home occupation permit has been revoked due to violation of these standards, the permittee must wait a minimum period of one year before another application for a home occupation on the subject lot will be considered.
 - D. Invalidation of permit. A home occupation permit is valid only for the property designated on the application and is voided if the applicant moves from the residence.
- (Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1)

§ 18.760.090. Nonconforming Home Occupations.

- A. Nonconforming home occupations. Ongoing home occupations may be granted

nonconforming status provided that they were:

1. Allowed under county authority prior to annexation to the city and have been in continuous operation since initial approval; or
 2. Allowed under city authority prior to 1983 and have since been in continuous operation.
- B. Governing regulations. Nonconforming home occupations will be regulated as a nonconforming circumstance.
1. A nonconforming circumstance is further regulated by Chapter 18.50, Nonconforming Circumstances. Such use may continue until the use is expanded or altered so as to increase the level of noncompliance with this title.
 2. The burden of proving a home occupation's nonconforming status rests with the property owner or tenant.
- C. Violations. Home occupations without city or county approval that cannot prove nonconforming status will be considered in violation of this chapter and must cease until the appropriate approvals have been obtained.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 19-09 §1)

CHAPTER 18.765 **Modifications**

§ 18.765.010. Purpose.

The purpose of this chapter is to provide an appropriate and efficient review process for evaluating modifications to existing developments or land use approvals.

(Ord. 18-28 §1)

§ 18.765.020. Applicability.

- A. This chapter applies to all proposals to modify an existing or proposed use, structure, site improvement, or condition of approval—for existing developments or land use approvals—when initially approved through one of the land use applications listed below:
 1. Conditional uses,
 2. Planned developments,
 3. Site development reviews, or
 4. Subdivisions and land partitions.
- B. This chapter also applies to all proposals to modify an existing development that was not subject to city approval when developed but would be subject to city approval, through one of the land use applications listed in Paragraph 18.765.020.A.1 through 4, if proposed for development under current city regulations.
- C. This chapter does not apply to proposals to modify a condition of approval where the modification is subject to the provisions of Paragraph 18.20.050.E.4.
- D. This chapter does not apply to proposals to modify an urban forestry plan where the modification is subject to the provisions of Subsection 18.420.060.F.

(Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.765.030. Review Type Determination.

- A. The Director will determine the most appropriate review type for the proposed modification. In addition to Subsection 18.710.040.D, the Director's determination will consider whether the proposed modification involves any of the following:
 1. Application of clear and objective standards or approval criteria;
 2. Application of discretionary standards or approval criteria;
 3. Exercise of professional judgment about technical issues; or
 4. Exercise of limited discretion.
- B. Allowed modifications involve the application of clear and objective standards that do not require the exercise of professional judgment about technical issues. These modifications do not require land use review.
- C. Minor modifications involve the exercise of professional judgment about technical issues

as they relate to the application of clear and objective or discretionary standards or approval criteria. These modifications require Type I land use review.

- D. Major modifications involve the exercise of limited discretion as they relate to the application of clear and objective or discretionary standards or approval criteria. These modifications require Type II land use review.

(Ord. 18-28 §1)

§ 18.765.040. General Provisions.

- A. A minor or major modification land use review is limited in scope to an evaluation of the modification's compliance with applicable standards and the degree of impact, if any, on surrounding properties, sensitive lands, or public facilities.
- B. A proposed modification involving a nonconforming use or development is subject to the provisions of Chapter 18.50, Nonconforming Circumstances, in addition to the provisions of this chapter.
- C. A proposed modification that constitutes substantial redevelopment, as determined by the Director, requires submittal of a new land use application rather than a modification application. Substantial redevelopment is defined as a modification that involves substantial changes to uses, structures, site improvements, operating characteristics, or original findings of fact.

(Ord. 18-28 §1)

§ 18.765.050. Allowed Modifications.

- A. Definition. An allowed modification has the following characteristics:
 - 1. It has negligible impacts on surrounding properties, sensitive lands, or public facilities;
 - 2. It does not cause the development to go out of conformance with any applicable standard or further out of conformance if already nonconforming, except where an adjustment has been approved; and
 - 3. It does not alter or contravene any condition of approval.
- B. Examples. Examples of allowed modifications include, but are not limited to, the following:
 - 1. Increase in open space or landscaping.
 - 2. Interior building modification or change of use that does not require the application of a higher parking quantity requirement.
 - 3. Exterior building facade modification that does not require the application of any design standard.
 - 4. Installation of mechanical equipment that does not involve the removal of any parking spaces or landscaping and where screening standards are met as provided in the applicable development standards chapter in 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards.

(Ord. 18-28 §1)

§ 18.765.060. Minor Modifications.

- A. Definition. A minor modification has the following characteristics:
 - 1. It has minimal impacts on surrounding properties, sensitive lands, or public facilities; and
 - 2. It does not cause the development to go out of conformance with any applicable standard or further out of conformance if already nonconforming, except where an adjustment has been approved.
- B. Examples. Examples of minor modifications include, but are not limited to, the following:
 - 1. Interior building modification or change of use that requires the application of a higher parking quantity requirement.
 - 2. Exterior building facade modification that requires the application of a design standard.
 - 3. Change of use to a restricted use.
 - 4. Change to the site that requires review of parking lot design or maximum parking standards.
 - 5. Minor decrease in open space or landscaping.
- C. Approval process. A minor modification application is processed through a Type I procedure as provided in Section 18.710.050.
- D. Approval criteria. The approval authority will approve or approve with conditions a minor modification application when all of the following criteria are met:
 - 1. The proposed modification qualifies as a minor modification as defined in Subsection 18.765.060.A;
 - 2. If the proposal involves the modification of a condition of approval, at least one of the following criteria is met:
 - a. The condition cannot be implemented for reasons outside the control of the applicant or property owner;
 - b. The condition is no longer needed or warranted because circumstances have changed; or
 - c. A new or modified condition better accomplishes the purpose of the original condition.

(Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-10 §2)

§ 18.765.070. Major Modifications.

- A. Definition. A major modification has the following characteristics:
 - 1. It has more than minimal impacts on surrounding properties, sensitive lands, or public

facilities but does not qualify as substantial redevelopment as defined in Subsection 18.765.040.C; and

2. It does not cause the development to go out of conformance with any applicable standard or further out of conformance if already nonconforming, except where an adjustment has been approved.
- B. Examples. Examples of major modifications include, but are not limited to, the following:
1. Addition of an accessory use associated with a conditional use.
 2. An increase in residential density other than the addition of an accessory dwelling unit.
 3. Major decrease in open space or landscaping.
- C. Approval process. A major modification application is processed through a Type II procedure as provided in Section 18.710.050.
- D. Approval criteria. The approval authority will approve or approve with conditions a major modification application when all of the following are met:
1. The proposed modification qualifies as a major modification as defined in Subsection 18.765.070.A;
 2. The operating and physical characteristics of the modified development are reasonably compatible with surrounding properties, sensitive lands, or public facilities;
 3. Any impacts from the proposed modification are mitigated to the extent practicable;
 4. If the proposed modification involves development that has nonconforming structures or site improvements and exceeds the project valuation threshold listed in the city's Master Fees and Charges Schedule, the development will be improved as required by Subsection 18.765.070.E; and
 5. If the proposal involves the modification of a condition of approval, at least one of the following criteria is met:
 - a. The condition cannot be implemented for reasons outside the control of the applicant or property owner;
 - b. The condition is no longer needed or warranted because circumstances have changed; or
 - c. A new or modified condition better accomplishes the purpose of the original condition.
- E. Modifications to nonconforming development. The purpose of these provisions is to require existing development with nonconforming structures or site improvements to come into conformance with city standards gradually as structures or site improvements are modified over time. These provisions also give applicants the choice of making improvements that support pedestrians—in lieu of making improvements to come into conformance—in order to advance Tigard's vision to become a walkable, healthy, and

inclusive city.

1. Development with nonconforming structures or site improvements is required to come closer or fully into conformance with all applicable development standards when the total project valuation of all proposed modifications equals or exceeds the amount listed in the city's Master Fees and Charges Schedule. The method for calculating total project valuation is as follows:
 - a. The total project valuation is based on the entire project and not individual development permits; and
 - b. The following modifications do not count toward the total project valuation:
 - i. Modifications to comply with fire and life safety requirements.
 - ii. Modifications to comply with applicable federal and state accessibility requirements.
 - iii. Modifications to improve seismic resiliency in conformance with state building codes.
 - iv. Modifications to improve or enlarge on-site stormwater management facilities in conformance with Clean Water Services and City of Tigard standards.
 - v. Modifications related to the installation of solar panels.
 - vi. Modifications to remove or remediate hazardous substances.
2. The applicant must demonstrate that a minimum of 10 percent of the total project valuation is being used to bring the development closer into conformance with all applicable development standards, except where:
 - a. The expenditure of a lesser amount brings the development fully into conformance with all applicable development standards;
 - b. No further improvements are practicable as determined by the Director; or
 - c. The cost to complete all required improvements exceeds 10 percent of the total project valuation, in which case the applicant must demonstrate that a minimum of 10 percent of the total project valuation is being used to bring the development closer into conformance with one or more development standards of the applicant's choosing.
3. The applicant must complete the improvements required by Paragraph 18.765.070.E.2 prior to final inspection or certificate of occupancy.
4. The applicant may choose to satisfy the requirements of Paragraph 18.765.070.E.2 by providing improvements that support pedestrians in lieu of bringing the development closer into conformance with all applicable development standards.
 - a. Pedestrian improvements may be to existing structures, site improvements, or public rights-of-way;
 - b. Pedestrian improvements must provide a new site or building element or

enhance an existing site or building element. Improvements involving maintenance or repair of existing site improvements or structures do not satisfy this provision; and

- c. Pedestrian improvements must be located in the public right-of-way or within 20 feet of a street property line. Improvements must not contravene any applicable standard and must fall into one of the following categories:
 - i. Pedestrian access and safety. Examples of access and safety improvements include:
 - (A) Building entrances that face a public sidewalk and provide direct pedestrian access to a public sidewalk;
 - (B) Paths that connect building entrances to public sidewalks using the shortest practicable route;
 - (C) Directional signage and lighting along paths that connect building entrances to public sidewalks;
 - (D) Wider sidewalks to further separate pedestrians from vehicle travel lanes; and
 - (E) Landscape strips or street trees to buffer pedestrians from vehicle travel lanes.
 - ii. Pedestrian comfort. Examples of comfort improvements include:
 - (A) Awnings over building entrances or windows for weather protection;
 - (B) Furnishings such as decorative trash cans or benches; and
 - (C) Installation of approved trees in the right-of-way or along the street property line to further separate pedestrians from parking areas or vehicle travel lanes and to provide weather protection.
 - iii. Visual interest. Examples of improvements that provide visual interest include:
 - (A) More or larger building windows that face a public sidewalk and provide building transparency for pedestrians;
 - (B) Pedestrian-scale architectural features such as window trim, awnings, wall trellises, or any permanent feature that reduces the visual impact of blank, flat, or long building walls; and
 - (C) Screening of parking or service areas with vegetation or decorative fencing or walls.

(Ord. 18-28 §1; Ord. 19-09 §1)

CHAPTER 18.770 **Planned Developments**

§ 18.770.010. Purpose.

The purpose of this chapter is to provide an appropriate review process for evaluating and establishing planned developments. Planned developments are typically large-scale developments or smaller developments on constrained sites that desire or need more flexibility than available through the adjustment process. The benefits of flexibility to a planned development may take many forms, including but not limited to the transfer of density across internal zone boundaries, greater diversity of housing types and uses, increased building height, or increased density.

The planned development review process provides an opportunity for innovative, creative, and well-designed developments that may be more intense than otherwise allowed by this title in exchange for developments that are thoughtfully integrated into the surrounding community and include features that benefit the public above and beyond what is generally required by this title. The benefits to the public from a planned development may take many forms, including but not limited to enhanced walkability or accessibility, increased housing options, increased open space, protection of significant tree groves, enhanced sensitive lands protection or restoration, enhanced outdoor recreational opportunities, enhanced public spaces or furnishings, pedestrian-scale architectural features, affordable housing, or sustainable features.

A planned development approval does not constitute a zone change and is subject to any modifications, conditions, or restrictions deemed appropriate by the approval authority.

(Ord. 18-28 §1)

§ 18.770.020. Applicability.

This chapter applies to all proposed or existing planned developments.

(Ord. 18-28 §1)

§ 18.770.030. General Provisions.

- A. Planned development review is a voluntary process.
- B. Planned development approval is required to establish a new planned development or to substantially redevelop an existing planned development. Substantial redevelopment is defined as a proposal that involves substantial changes to uses, structures, site improvements, operating characteristics, or original findings of fact.
- C. An applicant may choose to submit a single consolidated planned development application or two consecutive planned development applications consisting of a concept plan application and a detailed plan application.
- D. The proposed development must comply with all applicable development standards and requirements of this title, except as specifically adjusted through the planned development approval process. Planned development review satisfies the requirements for site development or conditional use review and a separate site development, conditional use, or adjustment application is not required.
- E. If sensitive lands review is required, a sensitive lands application must be submitted

concurrently with a consolidated or detailed plan application. A sensitive lands application may not be submitted concurrently with a concept plan application.

- F. If land division is proposed, a subdivision or land partition application must be submitted concurrently with a consolidated or detailed plan application. A subdivision or land partition application may not be submitted concurrently with a concept plan application.
- G. If the proposed development has more than one base zone designation, density and floor area standards are calculated for each base zone as provided by this title.
- H. Density and floor area allocations and increases allowed with planned development approval are as follows:
 - 1. Minimum density and floor area may be allocated anywhere on the site regardless of the underlying base zone designation.
 - 2. Maximum density and floor area may be increased subject to the limitation of Subparagraph 18.770.060.B.10.b.
- I. Uses and housing types allowed with planned development approval are based on the underlying zoning as follows:
 - 1. Residential zones. All housing types and civic uses are allowed. Commercial uses not allowed by the underlying base zone may be allowed where appropriately located, designed, and scaled.
 - 2. Commercial zones. Apartments and civic uses not allowed by the underlying base zone may be allowed where appropriately located, designed, and scaled.
 - 3. Industrial zones. No additional uses are allowed beyond what is allowed in the applicable base zone.
- J. The following development standards may not be adjusted with planned development approval:
 - 1. Minimum density or minimum floor area ratio.
 - 2. Maximum parking ratio.
 - 3. Any development standard that contains an express prohibition.
- K. Planned development approvals may not adjust the items listed in Paragraph 18.715.020.B.2 through 6.
- L. Planned development approvals may be modified as allowed by Chapter 18.765, Modifications.

(Ord. 18-28 §1)

§ 18.770.040. Required Analysis.

In addition to the submittal requirements in Paragraph 18.710.030.C.3, a consolidated or concept plan application must include the information listed below. The graphic illustrations must adequately demonstrate the required information. Examples of graphic illustrations include, but are not limited to, the following: maps, site plans, massing studies, elevation drawings, photo

simulations, and digitally created 3-dimensional drawings. Manually created artistic renderings are usually not adequate on their own to illustrate the required information.

- A. Proposal summary. A written description and graphic illustration of the planned development proposal with enough specificity to convey the overall land use pattern, development scale, circulation network, and housing types and densities. The description must include a statement about the planning objectives to be achieved by the proposal and why the applicant believes the public benefits from the proposal are sufficient to warrant the type and amount of flexibility requested.
- B. Flexibility request. A detailed written description of all proposed adjustments to development standards and the reason for each proposed adjustment. The description must be accompanied by professional studies or analyses as needed to adequately support the reason for each proposed adjustment. The description must also include a table that lists each applicable development standard and the associated proposed standard in a side-by-side column format.
- C. Public benefits proposal. A detailed written description of all proposed public benefits. The description must be accompanied by drawings, plans, or details as needed to convey the location, size, and overall nature of each public benefit. Public benefits include features, amenities, or protections that in some way exceed the minimum standards of this title to the benefit of the general public or planned development users.
- D. Environmental analysis. A written description and graphic illustration of the relationship between the planned development proposal and any existing natural features on the site. The description and illustration must explain how the proposal addresses any existing sensitive lands, significant tree groves, land forms, or other natural features on the site.
- E. Compatibility analysis. A written description and graphic illustration of the relationship between the planned development proposal and the surrounding community. The description and illustration must explain how the proposal integrates with and responds to existing development patterns through a discussion about the arrangement, location, and massing of all proposed buildings, uses, and site improvements, including streets and paths.
- F. Land use analysis. A detailed written description that demonstrates the need for or benefit of any civic or commercial uses proposed in a residential zone or civic or residential uses proposed in a commercial zone where not allowed in the underlying base zone. The description must be accompanied by professional studies or analyses as needed to adequately support the proposed land uses. The description must also include a table that lists each proposed land use category by location.
- G. Impact identification. A detailed written description of the impacts of the planned development proposal on adjacent properties or the surrounding community that would not occur if the site developed without a planned development approval. If impacts exist, the description must include a detailed mitigation proposal where practicable.

(Ord. 18-28 §1)

§ 18.770.050. Approval Process.

- A. A consolidated planned development application is processed through a Type III-PC procedure as provided in Section 18.710.080.

B. A consecutive planned development submittal involves two separate applications.

1. A concept plan application is processed through a Type III-PC procedure as provided in Section 18.710.080. A concept plan approval must be effective prior to the submittal of a detailed plan application.
2. A detailed plan application is processed through a Type II procedure as provided in Section 18.710.060, unless the concept plan approval authority specifies a different review procedure as a condition of concept plan approval.

(Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.770.060. Approval Criteria.

- A. Consolidated planned development. The approval authority will approve or approve with conditions a consolidated planned development application when all of the following criteria are met:
 1. All concept plan approval criteria listed in Subsection 18.770.060.B are met; and
 2. Adequate public facilities are available to serve the proposed development at the time of occupancy.
- B. Concept plan. The approval authority will approve or approve with conditions a concept plan application when all of the following criteria are met:
 1. The information and analysis required by Section 18.770.040 is sufficiently detailed and of high enough quality to effectively evaluate the proposed development;
 2. The characteristics of the site are suitable for the proposed development considering size, shape, location, topography, and natural features;
 3. The proposed development is reasonably compatible with and thoughtfully integrated into the surrounding community;
 4. The proposed development includes features, amenities, or protections that exceed the minimum standards of this title to the benefit of the general public or planned development users, and the proposed benefits are sufficient to warrant the type and amount of development flexibility requested;
 5. The streets, buildings, and site improvements of the proposed development are designed and located to preserve existing, healthy, and noninvasive trees and tree groves to the greatest extent possible;
 6. The streets, buildings, and site improvements of the proposed development are designed and located to preserve all natural drainages to the greatest extent possible, except where the applicant has demonstrated that modifying a natural drainage results in the same or better environmental function as the existing drainage;
 7. Any impacts from the proposed development are mitigated to the extent practicable;
 8. The city engineer has determined that any adjustments to street or access standards do not result in unsafe conditions;
 9. The proposed development complies with all applicable development standards and

requirements of this title, except as adjusted through this approval process; and

10. The proposed development is within the following limits:
 - a. Maximum building height may be increased by up to 50 percent,
 - b. Maximum density or floor area may be increased by up to 30 percent, and
 - c. Minimum landscape area may be reduced down to 10 percent.
- C. Detailed plan. The approval authority will approve or approve with conditions a detailed plan application when all of the following criteria are met:
 1. The proposed detailed plan is substantially consistent with the approved concept plan;
 2. The proposed detailed plan complies with all applicable development standards and requirements of this title, except as adjusted or conditioned through the concept plan approval process; and
 3. Adequate public facilities are available to serve the proposed development at the time of occupancy.

(Ord. 18-28 §1)

§ 18.770.070. Conditions of Approval.

The approval authority may impose conditions of approval that are suitable and necessary to ensure that the consolidated or concept plan proposal is consistent with the purpose of this chapter as embodied by the approval criteria listed in Subsections 18.770.060.A and B. Conditions may include but are not limited to the following:

- A. Requiring design features that minimize environmental impacts;
 - B. Limiting building height, size, or location;
 - C. Requiring higher quality materials or building design;
 - D. Requiring open space, public spaces, or community amenities;
 - E. Requiring separation or screening of uses, buildings, off-street parking areas, or service areas from public spaces or adjacent uses;
 - F. Requiring separation or screening of private residential spaces from public spaces or adjacent uses;
 - G. Requiring pedestrian access within the development and between the development and the surrounding community;
 - H. Requiring pedestrian-oriented design features such as building awnings, first-story windows and entries, or street-facing facades;
 - I. Limiting or otherwise designating the size, number, or location of vehicle access points; or
 - J. Limiting or otherwise designating the location, intensity, and shielding of outdoor lighting.
- (Ord. 18-28 §1; Ord. 20-01 §1)

CHAPTER 18.780 Site Development Reviews

§ 18.780.010. Purpose.

The purpose of this chapter is to provide an appropriate and efficient review process for ensuring compliance with the standards and provisions of this title that effectively coordinates the city's land use and development review functions.

(Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.780.020. Applicability.

- A. This chapter applies to development that requires site development review, except as provided in Subsections 18.780.020.B and C below.
- B. This chapter does not apply to development that is specifically exempted from site development review by another chapter of this title.
- C. This chapter does not apply to development that requires or proposes review through the conditional use or planned development review process.

(Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.780.030. General Provisions.

- A. Site development approval is required to develop a vacant site or to substantially redevelop an existing developed site. Substantial redevelopment is defined as a proposal that involves substantial changes to uses, structures, site improvements, operating characteristics, or original findings of fact.
- B. Site development approvals may be modified as allowed by Chapter 18.765, Modifications.

(Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.780.040. Approval Process.

- A. The following types of development require a site development review application that is processed through a Type I procedure as provided in Section 18.710.050:
 1. Apartments, and
 2. Mobile home parks.
- B. The following types of development require a site development review application that is processed through a Type II procedure as provided in Section 18.710.060:
 1. Cottage cluster development that meets the alternative standards of Section 18.240.060,
 2. Courtyard unit development that meets the alternative standards of Section 18.250.060,
 3. Nonresidential development,
 4. Mixed-use development, and

5. Wireless communication facilities subject to the standards of Section 18.450.040.
(Ord. 18-28 §1; Ord. 19-09 §1; Ord. 22-06 §2)

§ 18.780.050. Approval Criteria.

The approval authority will approve or approve with conditions a site development review application when all of the criteria listed below are met. These criteria broadly reference all chapters in this title that contain standards that may apply to the development. The city will identify which standards are applicable through the land use review process and evaluate the proposed development accordingly.

- A. The proposed development complies with all applicable base zone standards;
- B. The proposed development complies with all applicable residential and nonresidential development standards;
- C. The proposed development complies with all applicable supplemental development standards, including but not limited to off-street parking and landscaping standards;
- D. The proposed development complies with all applicable special designation standards, including but not limited to sensitive lands protection;
- E. The proposed development complies with all applicable plan district standards and requirements; and
- F. The proposed development complies with all applicable street and utility standards and requirements.

(Ord. 18-28 §1; Ord. 22-06 §2)

**CHAPTER 18.790
Text and Map Amendments**

§ 18.790.010. Purpose.

The purpose of this chapter is to establish procedures for legislative and quasi-judicial amendments to the City's Comprehensive Plan, this title, the comprehensive plan map and the official zoning map.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1)

§ 18.790.020. Legislative Amendments.

- A. Approval process. A legislative amendment application is processed through a Legislative procedure, as provided in Section 18.710.120.
- B. Approval considerations. A recommendation or a decision for a legislative amendment application may be based on consideration of the applicable legal requirements. They may, but do not necessarily include: Oregon Revised Statutes, Oregon Administrative Rules, one or more Statewide Planning Goals, Metro's Urban Growth Management Functional Plan and any other regional plans.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.790.030. Quasi-Judicial Amendments.

- A. Approval process.
 1. A quasi-judicial zoning map amendment application that does not require a comprehensive plan map amendment is processed through a Type III-PC procedure, as provided in Section 18.710.080.
 2. A quasi-judicial comprehensive plan map amendment application is processed through a Type III-Modified procedure, as provided in Section 18.710.090, which is decided by the City Council with a recommendation by Planning Commission.
 3. A quasi-judicial zoning map amendment application that requires a comprehensive map plan amendment is processed through a Type III-Modified procedure, as provided in Section 18.710.090, which is decided by the City Council with a recommendation by Planning Commission.
- B. Approval criteria. A recommendation or decision for a quasi-judicial zoning map amendment or quasi-judicial comprehensive plan amendment will be based on the following:
 1. Demonstration of compliance with all applicable comprehensive plan policies and map designations; and
 2. Demonstration that adequate public services exist to serve the property at the intensity of proposed zoning. Factors to consider include the projected service demands of the property, the ability of the existing and proposed public services to accommodate the future use, and the characteristics of the property and development proposal, if any.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

Part 18.800
LOT CREATION AND MODIFICATION

CHAPTER 18.805
Lot Standards

§ 18.805.010. Purpose.

The purpose of this chapter is to provide standards for the creation or modification of lots.
(Ord. 22-06 §2)

§ 18.805.020. Applicability.

The standards of this chapter apply to new lots that are created through a partition or subdivision and to existing lots that are reconfigured through a lot line adjustment or lot consolidation. Additional lot standards may apply to certain types of uses or development as provided in this title.

(Ord. 22-06 §2)

§ 18.805.030. Residential Lot Standards.

- A. Lot size. Dimensional standards for lots created or configured for residential development are provided in Table 18.805.1 for all zones where residential development is allowed.

Table 18.805.1
Dimensional Standards for Residential Lots by Housing Type

Standard	RES-A	RES-B	RES-C	RES-D	RES-E	MU-CBD	MUC	MUC-1	MUE	MUE-1 and MUE-2	MUR-1	MUR-2
Minimum Lot Size (ft)												
Apartments				3,000	1,480	None	None	None	None	None	None	None
Cottage Cluster	20,000	7,500	7,000	7,000							10,000	10,000
Courtyard Unit	20,000	7,500	7,000	7,000							8,000	8,000
Quad	10,000	7,500	5,000	3,000							None	None
Rowhouse	1,500	1,500	1,250	750	None	None		None			None	None
Small Form Residential	20,000	7,500	5,000	3,000								
Maximum Lot Size (ft)												
Apartments				None	None	None	None	None	None	None	None	None
Cottage Cluster	32,499	32,499	32,499	32,499							32,499	32,499
Courtyard Unit	25,999	25,999	25,999	25,999							25,999	25,999
Quad	11,500	9,000	6,250	6,250							5,000	5,000
Rowhouse	3,000	3,000	1,750	1,250	1,000	None		870			870	1,750
Small Form Residential	25,000	9,375	6,250	3,750								
Minimum Lot Width (ft)												
Apartments				None	None	None	None	None	None	None	None	None
Cottage Cluster	75	50	50	None							None	None
Courtyard Unit	75	50	50	50							None	None
Quad	75	50	50	None							None	None

Table 18.805.1
Dimensional Standards for Residential Lots by Housing Type

Standard	RES-A	RES-B	RES-C	RES-D	RES-E	MU-CBD	MUC	MUC-1	MUE	MUE-1 and MUE-2	MUR-1	MUR-2
Rowhouse	25	25	20	None	20	None		16			16	16
Small Form Residential	100	50	50	None								

- B. Lot shape. Each lot for quad, rowhouse, or small form residential development must be rectilinear in shape with straight side lot lines at right angles to front lot lines, and straight rear lot lines parallel to front lot lines, except where not practicable due to location along a street radius or because of existing natural features or lot lines. Side and rear lot lines that are segmented must not contain cumulative lateral changes in direction that exceed 10% of the distance between opposing lot corners, as measured using the process of Subsection 18.40.060.C.
- C. Lot frontage. Each lot must have a minimum of 40 feet of frontage on a public or private right-of-way, except for the following types of lots:
1. Flag lots and rowhouse lots must have a minimum of 15 feet of frontage on a public or private right-of-way;
 2. Lots with curved frontages along cul-de-sacs or eyebrows must have a minimum of 20 feet of frontage on a public or private right-of-way as measured along the arc of the front lot line; and
 3. Lots at the terminus of a private street must have a minimum of 20 feet of frontage on a private right-of-way.
- D. Flag lots. Flag lots may only be created or configured through the provisions of Chapter 18.810, Lot Line Adjustments And Lot Consolidations or Chapter 18.820, Land Partitions. Flag lots are subject to the following:
1. The minimum lot width and depth of a flag lot is 40 feet and is measured as provided in Section 18.40.080, and
 2. Any lot line may be designated as the front lot line provided that no side setback is reduced to less than 10 feet.

(Ord. 22-06 §2)

§ 18.805.040. Nonresidential Lot Standards.

Dimensional standards for nonresidential or mixed-use lots created or reconfigured in commercial or industrial zones are provided in Table 18.805.2.

Standard	C-N	C-C	C-G	C-P	MUE	MUE-2		MUC	I-P	I-L	I-H
	5,000	None	6,000	None	None	MUR-2	MUR-1	MUE-1			
Minimum Lot Size (sq. ft.)											
Minimum Lot Width (ft.)	50	50	50	50	None	None	None	None	50	50	50

(Ord. 22-06 §2)

**CHAPTER 18.810
Lot Line Adjustments and Lot Consolidations**

§ 18.810.010. Purpose.

The purpose of this chapter is to provide rules, regulations, and criteria governing approval of lot line adjustments and lot consolidations.

(Ord. 17-22 §2; Ord. 22-06 §2)

§ 18.810.020. Approval Process.

- A. Approval process. A lot line adjustment and consolidation application is processed through a Type I procedure, as provided in Section 18.710.050.
- B. Approval period. Expirations and extensions of approvals are provided in Subsection 18.20.050.G.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.810.030. General Provisions.

- A. Conditions. Lots reconfigured using the dimensional standards for cottage cluster, courtyard unit, quad, and rowhouse development must record a deed restriction that prohibits any type of development other than the type proposed with the subdivision application. This deed restriction cannot be removed except through a lot creation or modification process, other than a subplot plat.
- B. Exemptions from dedications. A lot line adjustment or lot consolidation is not considered a development action for purposes of determining whether special flood hazard area, greenway, or right-of-way dedication is required.

(Ord. 22-06 §2)

§ 18.810.040. Approval Criteria—Preliminary Plat.

The approval authority will approve or approve with conditions an application for a lot line adjustment or lot consolidation when all of the following are met:

- A. The reconfiguration of lot lines must not result in the creation of an additional lot.
- B. The reconfigured lots must comply with the lot standards as provided in Chapter 18.805 Lot Standards.
- C. All pre-existing buildings and structures on the reconfigured lots must meet the setback requirements provided in the applicable development standards chapter in 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards.
- D. Where a common drive is to be provided to serve more than one lot, a reciprocal easement that will ensure access and maintenance rights must be recorded with the approved lot line adjustment or lot consolidation.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.810.050. Recording Lot Line Adjustments and Lot Consolidations.

- A. Recording requirements. Upon approval of the proposed lot line adjustment or lot consolidation, the applicant must record the lot line adjustment or lot consolidation with Washington County and submit a copy of the recorded survey map to the city, to be incorporated into the record.
- B. Time limit. The applicant must submit the copy of the recorded lot line adjustment or lot consolidation survey map to the city prior to the issuance of any development permits on the re-configured lots.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

CHAPTER 18.820 **Land Partitions**

§ 18.820.010. Purpose.

The purpose of this chapter is to provide rules, regulations, and standards governing approval of land partitions.

(Ord. 17-22 §2; Ord. 22-06 §2)

§ 18.820.020. General Provisions.

- A. Conformance with state statute. All land partition proposals must comply with all state regulations as provided in ORS Chapter 92, Subdivision and Partitions.
- B. Special flood hazard area dedications. Where land filling or development is allowed within and adjacent to the special flood hazard area outside the zero-foot rise floodway, the city will require the dedication of sufficient open land area for a greenway adjacent to and within the special flood hazard area. This area will include portions at a suitable elevation for the construction of a path, sidewalk, or trail within the special flood hazard area as provided in the adopted trails plan or transportation plan.
- C. Prohibition on sale of lots. Sale of lots created through the land partitioning process is prohibited until the final partition plat is recorded.
- D. Conditions. Lots created using the dimensional standards for cottage cluster, courtyard unit, quad, and rowhouse development must record a deed restriction that prohibits any type of development other than the type proposed with the subdivision application. This deed restriction cannot be removed except through another lot creation or modification process, other than a sublot plat.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.820.030. Approval Process.

- A. Approval through two-step process. A land partition application requires a two-step process: the preliminary plat and the final plat.
 1. Preliminary plat. A preliminary plat application is processed through a Type II procedure, as provided in Section 18.710.060.
 2. Final plat. The preliminary plat must be approved before the final plat can be submitted for approval. The final plat must satisfy all conditions of approval imposed as part of the preliminary plat approval.
- B. Approval period. Expirations and extensions of approvals are provided in Subsection 18.20.050.G.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.820.040. Approval Criteria—Preliminary Plat.

The approval authority will approve or approve with conditions an application for a land partition when all of the following are met:

- A. The proposed preliminary plat must comply with all applicable standards and provisions of

this title and the Tigard Municipal Code;

- B. There must be adequate public facilities available to serve the proposed lots;
- C. The proposed lots must comply with the lot standards as provided in Chapter 18.805 Lot Standards, except that maximum lot sizes are increased by 20% for small form residential development.
- D. All pre-existing buildings and structures must meet the setback requirements provided in the applicable development standards chapter in 18.200 Residential Development Standards or 18.300 Nonresidential Development Standards.
- E. Where a common drive is to be provided to serve more than one lot, a reciprocal easement that will ensure access and maintenance rights must be recorded with the approved partition plat.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.820.050. Final Plat Submittal Requirements.

- A. Submittal. All final plats applications for land partitions must provide three copies of the final plat prepared by a land surveyor or engineer licensed to practice in Oregon, and any necessary data or narrative. The final plat must incorporate any conditions of approval imposed as part of the preliminary plat approval.
- B. Standards. The final plat and data or narrative must be drawn to the standards provided in the Oregon Revised Statutes (ORS 92.05) and by Washington County.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.820.060. City Acceptance of Dedicated Land.

- A. Acceptance of dedications. The City Engineer will accept the proposed right-of-way dedication prior to recording a land partition.
- B. Acceptance of public easements. The City Engineer will accept all public easements shown for dedication on partition plats.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.820.070. Recording Partition Plats.

- A. Recording requirements. Upon approval of the proposed partition, the applicant must record the final partition plat with Washington County and submit a copy of the recorded survey map to the city, to be incorporated into the record. This plat must be recorded with any deed restrictions required as a condition of approval.
- B. Time limit. The applicant must submit the copy of the recorded partition survey map to the city prior to the issuance of any development permits on the newly created lots.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

**CHAPTER 18.830
Subdivisions**

§ 18.830.010. Purpose.

The purpose of this chapter is to provide rules, regulations, and standards governing approval of subdivisions.

(Ord. 17-22 §2; Ord. 22-06 §2)

§ 18.830.020. General Provisions.

- A. Conformance with state statute. All subdivision proposals must comply with all state regulations as provided in ORS Chapter 92, Subdivisions and Partitions.
- B. Lot averaging. Lot area or width may be reduced to allow lots less than the minimum applicable standard provided the average lot area or width for all lots in the subdivision is not less than that required. All lots created under this provision must be at least 80% of the minimum required lot area or width.
- C. Temporary sales office. Temporary sales offices in conjunction with any subdivision may be granted as provided in Chapter 18.440, Temporary Uses.
- D. Minimize flood damage. All subdivision proposals must be consistent with the need to minimize flood damage.
- E. Special flood hazard area dedications. Where land filling or development is allowed within and adjacent to the special flood hazard area outside the zero-foot rise floodway, the city will require the dedication of sufficient open land area for a greenway adjacent to and within the special flood hazard area. This area will include portions at a suitable elevation for the construction of a path, sidewalk, or trail within the special flood hazard area as provided in the adopted trails plan or transportation plan.
- F. Need for adequate utilities. All subdivision proposals must have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- G. Need for adequate drainage. All subdivision proposals must have adequate drainage provided to reduce exposure to flood damage.
- H. Determination of base flood elevation. Where base flood elevation has not been provided or is not available from another authoritative source, it must be generated for subdivision proposals and other proposed developments that contain at least 50 lots or five acres (whichever is less).
- I. Prohibition on sale of lots. Sale of lots created through the subdivision process is prohibited until the final subdivision plat is recorded.
- J. Prohibition on flag lots. The creation of flag lots through a subdivision is prohibited.
- K. Conditions.
 - 1. Lots created using the dimensional standards for cottage cluster, courtyard unit, quad, and row-house development must record a deed restriction that prohibits any type of

development other than the type proposed with the subdivision application. This deed restriction cannot be removed except through another lot creation or modification process, other than a sublot plat.

2. The approval authority may attach conditions that are necessary to carry out the comprehensive plan and other applicable ordinances and regulations and may require reserve strips be granted to the city for the purpose of controlling access to adjacent undeveloped properties.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.830.030. Approval Process.

- A. Approval through two-step process. A subdivision application requires a two-step process: the preliminary plat and the final plat.
 1. Preliminary plat. A preliminary plat application is processed through a Type II procedure, as provided in Section 18.710.060. An application for a preliminary plat may be reviewed concurrently with an application for a planned development, as provided in Chapter 18.770, Planned Developments.
 2. Final plat. The preliminary plat must be approved before the final plat can be submitted for approval. The final plat must satisfy all conditions of approval imposed as part of the preliminary plat approval.
- B. Approval period. Expirations and extensions of approvals are provided in Subsection 18.20.050.G.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.830.040. Approval Criteria—Preliminary Plat.

The approval authority will approve or approve with conditions an application for a preliminary plat when all of the following are met:

- A. The proposed preliminary plat must comply with all applicable standards and provisions of this title and the Tigard Municipal Code;
- B. The proposed lots must comply with the lot standards as provided in Chapter 18.805 Lot Standards.
- C. The proposed plat name must not be duplicative and must satisfy the provisions of ORS Chapter 92;
- D. The streets and roads must be laid out so as to conform to the plats of subdivisions and partitions already approved for adjacent property as to width, general direction and in all other respects unless the city determines it is in the public interest to modify the street or road pattern; and
- E. An explanation must be provided for all common improvements.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.830.050. Approval Criteria—Final Plat.

A final plat will be approved when all of the following are met:

- A. The final plat complies with the preliminary plat approved by the approval authority and all conditions of approval have been met;
- B. The streets and roads for public use are dedicated without reservation or restriction other than revisionary rights upon vacation of any such street or road and easements for public utilities;
- C. The streets and roads held for private use and indicated on the preliminary plat of such subdivision have been approved by the city;
- D. The plat contains a donation to the public of all common improvements, including but not limited to streets, roads, parks, sewage disposal, and water supply systems;
- E. An explanation is included that explains all of the common improvements required as conditions of approval and are in recordable form and have been recorded and referenced on the plat;
- F. The plat complies with the applicable zoning ordinance and other applicable regulations;
- G. A certification by the appropriate water provider that water will be available to the lot line of each lot depicted on the plat or bond, contract, or other assurance has been provided by the applicant to the city that a domestic water system will be installed by or on behalf of the applicant to the lot line of each lot depicted on the plat. The amount of the bond, contract, or other assurance by the applicant must be determined by a registered professional engineer, subject to any change in amount as determined necessary by the city;
- H. A certificate has been provided by the city's engineering department that a sewage disposal system will be available to the lot line of each lot depicted in the proposed plat;
- I. Copies of signed deeds have been submitted granting the city a reserve strip as provided by Subsection 18.830.040.B;
- J. The plat contains a surveyor's affidavit by the surveyor who surveyed the land represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92[.060] and indicating the initial point of the survey, and giving the dimensions and kind of such monument, and its reference to some corner established by the U.S. survey or giving two or more objects for identifying its location;
- K. The plat includes any deed restrictions imposed as a condition of approval;
- L. The plat includes all tracts and easements proposed by the applicant in the preliminary plat or imposed as a condition of approval; and
- M. All improvements have been installed in accordance with these regulations and with preliminary plat approval.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.830.060. Bond.

- A. Performance guarantee required. The applicant must file with the agreement an assurance of performance supported by one of the following:
 1. An irrevocable letter of credit executed by a financial institution authorized to transact

business in the State of Oregon;

2. A surety bond executed by a surety company authorized to transact business in the State of Oregon that remains in force until the surety company is notified by the city in writing that it may be terminated; or
 3. Cash.
- B. Determination of sum. The assurance of performance will be for a sum determined by the City Engineer as required to cover the cost of the improvements and repairs, including related engineering and incidental expenses.
- C. Itemized improvement estimate. The applicant must furnish to the City Engineer an itemized improvement estimate, certified by a registered civil engineer, to assist the City Engineer in calculating the amount of the performance assurance.
- D. When applicant fails to perform. In the event the applicant fails to carry out all provisions of the agreement and the city has unreimbursed costs or expenses resulting from such failure, the city may call on the bond, cash deposit, or letter of credit for reimbursement.
- E. Termination of performance guarantee. The applicant may not cause termination of nor allow expiration of said guarantee without having first secured written authorization from the city.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 22-06 §2)

§ 18.830.070. Filing and Recording.

- A. Filing. Within 60 days of the city review and approval, the applicant must submit the final plat to the county for signatures of county officials as required by ORS Chapter 92 and Section 18.830.060. This plat must be recorded with any deed restrictions required as a condition of approval.
- B. Proof of recording. Upon final recording with the county, the applicant must submit to the city a mylar copy of the recorded final plat and a copy of recorded deed restrictions. This must occur prior to the issuance of development permits for the newly created lots.
- C. Prerequisites to recording the plat.
 1. No plat will be recorded unless all ad valorem taxes and all special assessments, fees, or other charges required by law to be placed on the tax roll have been paid in the manner provided by ORS Chapter 92;
 2. No plat will be recorded until it is approved by the county surveyor in the manner provided by ORS Chapter 92.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

§ 18.830.080. Plat Vacations.

- A. Timing of vacations. Any plat or portion thereof may be vacated by the owner of the platted area at any time prior to the sale of any lot within the platted subdivision.
- B. Compliance with other provisions of this chapter. All applications for a plat vacation must be made in compliance with Sections 18.830.020 and 18.830.030 and Subsection

18.830.070.A.

- C. Basis for denial. The application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets, or alleys.
- D. Timing of vacations. All approved plat vacations must be recorded in compliance with this section:
 - 1. Once recorded, the vacation will operate to eliminate the force and effect of the plat prior to vacation; and
 - 2. The vacation will also divest all public rights in the streets, alleys, and public grounds, and all dedications laid out or described on the plat.
- E. After sale of lots. When lots have been sold, the plat may be vacated in the manner herein provided by all of the owners of lots within the platted area.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)

**CHAPTER 18.840
Sublot Plats**

§ 18.840.010. Purpose.

The purpose of this chapter is to:

- A. Provide local rules, regulations, and standards for dividing a lot into sublots and tracts to meet the requirements of state law for middle housing land divisions;
- B. Provide a legal distinction between the primary lot and the sublots and tracts created by a subplot plat;
- C. Ensure adequate public facilities, including infrastructure for transportation, water supply, sanitary sewer, and stormwater; and
- D. Require adequate documentation of the ownership of shared lot elements and the associated responsibility for their maintenance.

(Ord. 22-06 §2)

§ 18.840.020. Applicability.

- A. Applicability. The provisions of this chapter apply to the platting of sublots and tracts on a lot containing or proposed to contain one of the following types of development:
 1. Cottage Clusters,
 2. Courtyard Units,
 3. Rowhouses,
 4. Small Form Residential, or
 5. Accessory Dwelling Units.
- B. Prohibitions. Stacked dwelling units are prohibited from being divided using the provisions of this chapter.

(Ord. 22-06 §2)

§ 18.840.030. General Provisions.

- A. Conformance with state statute. All subplot plat proposals must comply with all state regulations.
- B. Resultant land units. The units of land created by a subplot plat are either sublots or tracts and are collectively considered to be a single lot for all but platting and property transfer purposes. All of the provisions of this title continue to apply to the lot and existing or future development on the lot, including but not limited to, the following:
 1. Lot standards such as size, setbacks, lot coverage, and lot width and depth;
 2. Designation of housing types on the lot; and
 3. Allowed number of dwelling units.

- C. Special flood hazard area dedications. Where land filling or development is allowed within and adjacent to the special flood hazard area outside the zero-foot rise floodway, the city will require the dedication of sufficient open land area for a greenway adjacent to and within the special flood hazard area. This area will include portions at a suitable elevation for the construction of a path, sidewalk, or trail within the special flood hazard area as provided in the adopted trails plan or transportation plan.
- D. Need for adequate utilities. All subplot plat proposals must provide adequate public utilities and facilities such as sanitary sewer, stormwater, gas, electrical, and water systems to each unit, subject to the standards of each utility provider, and the provisions of Sections 18.910.150 and 18.910.170.
- E. Need for adequate drainage. All subplot plat proposals must have adequate drainage provided to reduce exposure to flood damage.
- F. Determination of base flood elevation. Where base flood elevation has not been provided or is not available from another authoritative source, it must be generated for subplot plat proposals and other proposed developments that contain at least 50 units or five acres (whichever is less).
- G. Adjustments. Adjustments to subplot plat regulations must be made in compliance with Chapter 18.715, Adjustments. Any adjustment request must be processed concurrently with the subplot plat proposal.
- H. Prohibition on sale of lots. Sale of sublots created through the subplot plat process is prohibited until the final plat is recorded.
- I. Prohibition on further division. Further division of sublots is prohibited.

(Ord. 22-06 §2)

§ 18.840.040. Approval Process.

- A. Approval through two-step process. A subplot plat application is processed through a two-step process: the preliminary subplot plat and the final subplot plat.
 - 1. Preliminary subplot plat. A preliminary plat application is processed through a Type II-Modified procedure, as provided in Section 18.710.070. An application for a preliminary subplot plat may be submitted:
 - a. Concurrently with development permits or applications for site development review or planned development review; or
 - b. At any time after a middle housing development has passed final building inspection or received permanent certificates of occupancy for all units proposed to be included in the subplot plat.
 - 2. Final subplot plat. A final subplot plat may only be submitted after the preliminary subplot plat has been approved, and after all development permits have been issued and foundation inspections have been approved for all units proposed to be included in the subplot plat. The final subplot plat must satisfy all conditions of approval from the preliminary subplot plat approval.
- B. Approval period. Expirations and extensions of approvals are provided in Subsection

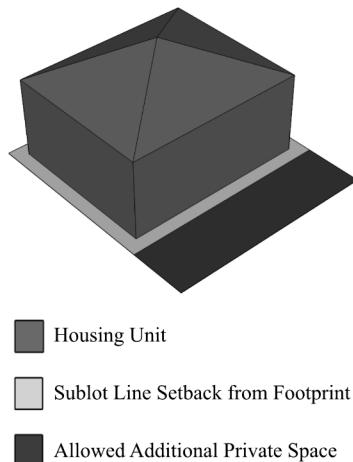
18.20.050.G.
(Ord. 22-06 §2)

§ 18.840.050. Approval Criteria—Preliminary Sublot Plat.

The approval authority will approve or approve with conditions an application for a preliminary subplot plat when all of the following are met:

- A. The proposed sublots and tracts must comply with the following standards:
 1. Each subplot must contain only one dwelling unit.
 2. Each subplot line must be a minimum of 1.5 feet from the footprint of the associated dwelling unit, except where dwelling units share a common wall; and
 3. Each subplot line must be a maximum of three feet from the footprint of the associated dwelling unit, except that a single subplot line along a side or rear facade of a unit may be located a maximum of 15 feet from the footprint of the dwelling unit along that facade for the purpose of providing a private outdoor area that meets the following:
 - a. The area must be contiguous;
 - b. The area must be 200 square feet or less, measured as shown in Figure 18.840.1;
 - c. The area must not have any internal dimension of less than five feet; and
 - d. The area must be accessible from a first-story entrance that is not the primary entrance to the dwelling unit.
 4. All remaining portions of the lot must be placed in one or more tracts under common ownership.
- B. All utilities within a subplot that serve other sublots must be placed in easements.
- C. The proposed plat name must not be duplicative.

Figure 18.840.1 Sublot Private Space Adjacent to Required Sublot Line Setbacks



(Ord. 22-06 §2)

§ 18.840.060. Approval Criteria—Final Sublot Plat.

A final subplot plat will be approved when all of the following are met:

- A. The final subplot plat substantially conforms to the approved preliminary subplot plat and all conditions of approval have been met.
- B. The final plat includes the following:
 1. A note prohibiting further division of the sublots;
 2. Labels and descriptions for all tracts;
 3. A reference to any deed restrictions imposed on the lot or sublots as a condition of approval of the original lot creation, subplot plat, or development approval; and
 4. An affidavit by the surveyor who surveyed the land represented on the plat indicating the land was correctly surveyed and marked with proper monuments and indicating the initial point of the survey, and giving the dimensions and kind of each monument, and its reference to some corner established by the U.S. survey or giving two or more objects for identifying its location.
- C. The city's engineering department has provided written confirmation that a sewage disposal system will be available to the subplot line of each subplot depicted in the final subplot plat.
- D. All public improvements have been installed and inspected in accordance with Section 18.910.190 and have been approved in accordance with Section 18.910.200.
- E. A copy of the recorded document establishing a homeowners association to manage all commonly held areas located in tracts has been provided to the city. At a minimum this document must include the following:
 1. A description of the common elements located in tracts.
 2. An allocation to each unit included in the subplot plat of an undivided and equal interest in the common elements and the method used to establish the allocation.
 3. An establishment of use rights for common elements, including responsibility for enforcement, and
 4. A maintenance agreement for common elements, including an allocation or method of determining liability for a failure to maintain.

(Ord. 22-06 §2)

§ 18.840.070. Bond.

The bonding requirements of Section 18.830.060 apply.

(Ord. 22-06 §2)

§ 18.840.080. Filing and Recording.

The filing and recording requirements of Section 18.830.070 apply.

(Ord. 22-06 §2)

§ 18.840.090. Plat Vacations.

The plat vacation requirements and procedures of Section 18.830.080 apply.
(Ord. 22-06 §2)

**Part 18.900
STREETS AND UTILITIES**

**CHAPTER 18.910
Improvement Standards**

§ 18.910.010. Purpose.

The purpose of this chapter is to provide construction standards for the implementation of public and private facilities and utilities such as streets, sewers, and drainage.

(Ord. 17-22 §2)

§ 18.910.020. General Provisions.

- A. Applicability. Unless otherwise provided, construction, reconstruction or repair of streets, sidewalks, curbs, and other public improvements shall occur in compliance with the standards of this title. No development may occur and no land use application may be approved unless the public facilities related to development comply with the public facility requirements established in this chapter and adequate public facilities are available. Applicants may be required to dedicate land and build required public improvements only when the required exaction is directly related to and roughly proportional to the impact of the development.
- B. Standard specifications. The City Engineer shall establish standard specifications consistent with the application of engineering principles.
- C. Title 6. The provisions of Title 6, Nuisance Violations of the Tigard Municipal Code shall apply to this chapter.
- D. Adjustments. Adjustments to the provisions in this chapter related to street improvements shall be processed through a Type II procedure, as provided in Section 18.710.060, using approval criteria in Section 18.715.050.
- E. Except as provided in 18.910.030.T, as used in this chapter, the term "streets" shall mean "public streets" unless an adjustment under Subsection 18.910.020.D is allowed.

(Ord. 17-22 §2)

§ 18.910.030. Streets.

- A. Improvements.
 - 1. No development shall occur unless the development has frontage or approved access to a public street.
 - 2. No development shall occur unless streets within the development meet the standards of this chapter.
 - 3. No development shall occur unless the streets adjacent to the development meet the standards of this chapter, provided, however, that a development may be approved if the adjacent street does not meet the standards but half-street improvements meeting the standards of this chapter are constructed adjacent to the development.

4. Any new street or additional street width planned as a portion of an existing street shall meet the standards of this chapter.
 5. If the city could and would otherwise require the applicant to provide street improvements, the City Engineer may accept a future improvements guarantee in lieu of street improvements if one or more of the following conditions exist:
 - a. A partial improvement is not feasible due to the inability to achieve proper design standards;
 - b. A partial improvement may create a potential safety hazard to motorists or pedestrians;
 - c. Due to the nature of existing development on adjacent properties it is unlikely that street improvements would be extended in the foreseeable future and the improvement associated with the project under review does not, by itself, provide a significant improvement to street safety or capacity;
 - d. The improvement would be in conflict with an adopted capital improvement plan;
 - e. The improvement is associated with an approved land partition on property zoned residential and the proposed land partition does not create any new streets; or
 - f. Additional planning work is required to define the appropriate design standards for the street and the application is for a project which would contribute only a minor portion of the anticipated future traffic on the street.
 6. The standards of this chapter include the standard specifications adopted by the City Engineer in compliance with Subsection 18.910.020.B.
 7. The approval authority may approve adjustments to the standards of this chapter if compliance with the standards would result in an adverse impact on natural features such as wetlands, bodies of water, significant habitat areas, steep slopes, or existing mature trees. The approval authority may also approve adjustments to the standards of this chapter if compliance with the standards would have a substantial adverse impact on existing development or would preclude development on the property where the development is proposed. In approving an adjustment to the standards, the approval authority shall balance the benefit of the adjustment with the impact on the public interest represented by the standards. In evaluating the impact on the public interest, the approval authority shall consider the criteria listed in Subsection 18.910.030.E. An adjustment to the standards may not be granted if the adjustment would risk public safety.
- B. Creation of rights-of-way for streets and related purposes. Rights-of-way shall be created through the approval of a final plat; however, the council may approve the creation of a street by acceptance of a deed, provided that such street is deemed essential by the council for the purpose of general traffic circulation.
1. The council may approve the creation of a street by deed of dedication without full compliance with the regulations applicable to subdivisions or partitions if any one or more of the following conditions are found by the council to be present:

- a. Establishment of a street is initiated by the council and is found to be essential for the purpose of general traffic circulation, and partitioning or subdivision of land has an incidental effect rather than being the primary objective in establishing the road or street for public use; or
 - b. The tract in which the road or street is to be dedicated is an isolated ownership of 1 acre or less and such dedication is recommended by the commission to the council based on a finding that the proposal is not an attempt to evade the provisions of this title governing the control of subdivisions or partitions.
 - c. The street is located within the mixed use central business district (MU-CBD) zone and has been identified on Figures 5-14A through 5-14I of the City of Tigard 2035 Transportation System Plan as a required connectivity improvement.
2. With each application for approval of a road or street right-of-way not in full compliance with the regulations applicable to the standards, the proposed dedication shall be made a condition of subdivision and partition approval.
 - a. The applicant shall submit such additional information and justification as may be necessary to enable the commission in its review to determine whether or not a recommendation for approval by the council shall be made.
 - b. The recommendation, if any, shall be based upon a finding that the proposal is not in conflict with the purpose of this title.
 - c. The commission in submitting the proposal with a recommendation to the council may attach conditions which are necessary to preserve the standards of this title.
 3. All deeds of dedication shall be in a form prescribed by the city and shall name "the public" as grantee.
- C. Creation of access easements. The approval authority may approve an access easement established by deed without full compliance with this chapter provided such an easement is the only reasonable method by which a lot large enough to develop can be created.
1. Access easements shall be provided and maintained in compliance with the Oregon Fire Code, Section 503.
 2. Access shall be in compliance with Subsections 18.920.030.H, I, and J.
- D. Street location, width and grade. Except as noted below, the location, width and grade of all streets shall conform to an approved street plan and shall be considered in their relation to existing and planned streets, to topographic conditions, to public convenience and safety, and in their appropriate relation to the proposed use of the land to be served by such streets:
1. Street grades shall be approved by the City Engineer in compliance with Subsection 18.910.030.N; and
 2. Where the location of a street is not shown in an approved street plan, the arrangement of streets in a development shall either:
 - a. Provide for the continuation or appropriate projection of existing streets in the

surrounding areas, or

- b. Conform to a plan adopted by the commission, if it is impractical to conform to existing street patterns because of particular topographical or other existing conditions of the land. Such a plan shall be based on the type of land use to be served, the volume of traffic, the capacity of adjoining streets and the need for public convenience and safety.
- E. Minimum rights-of-way and street widths. Unless otherwise indicated on an approved street plan, or as needed to continue an existing improved street or within the Tigard Downtown Plan District, street right-of-way and roadway widths shall not be less than the minimum width described below. Where a range is indicated, the width shall be determined by the decision-making authority based upon anticipated average daily traffic (ADT) on the new street segment. (The city council may adopt by resolution, design standards for street construction and other public improvements. The design standards will provide guidance for determining improvement requirements within the specified ranges.) These are provided in Table 18.910.1.

The approval authority shall make its decision about desired right-of-way width and pavement width of the various street types within the subdivision or development after consideration of the following:

1. The type of road as provided in the comprehensive plan transportation chapter - functional street classification.
2. Anticipated traffic generation.
3. On-street parking needs.
4. Sidewalk and bikeway requirements.
5. Requirements for placement of utilities.
6. Street lighting.
7. Drainage and slope impacts.
8. Street tree location.
9. Planting and landscape areas.
10. Safety and comfort for motorists, bicyclists, and pedestrians.
11. Access needs for emergency vehicles.

Table 18.910.1
Minimum Widths for Street Characteristics and Downtown Street Character Types

Type of Street	Right-of-Way Width	Paved Width	Number of Lanes	Min. Lane Width	On-Street Parking Width	Bike Lane Width	Sidewalk Width	Landscape Strip Width (exclusive of curb)	Median Width
Arterial	64'—128'	Varies	2—7 (Refer to TSP)	12'	Not allowed	6' (New Streets) 5'—6' (Existing Streets)	8' (Res. & Ind. Zones) 10' (Comm. Zones)	5'	12' [1]
Collector	58'—96'	Varies	2—5 (Refer to TSP)	11'	8' [2]	6' (New Streets) [3] 5'—6' (Existing Streets) [3]	6' (Res. & Ind. Zones) 8' (Comm. Zones)	5'	12' [1]
Neighborhood Route	50'—58'	28'—36'	2	10'	8'	5'—6'	5'—6' [4]	5'	N/A
Local: [5] Industrial/ Commercial	50'	36'	2	N/A	N/A	N/A	5'—6' [4]	5'	N/A
Local: Residential [5]									
Under 1500 ADT	54'/50' [3]	32'/28' [6]	2		7' (both sides)	N/A			
Under 500 ADT	50'/46' [3]	28'/24' [6]	2	N/A	7' (1 side)	N/A	5'—6 [4]	5'	N/A
Under 200 ADT	46'/42' [3]	24'/20' [6]	2		Not allowed	N/A			

Table 18.910.1
Minimum Widths for Street Characteristics and Downtown Street Character Types

Type of Street	Right-of-Way Width	Paved Width	Number of Lanes	Min. Lane Width	On-Street Parking Width	Bike Lane Width	Sidewalk Width	Landscape Strip Width (exclusive of curb)	Median Width
Cul-De-Sac Bulbs in Industrial and Commercial Zones	50' radius	42' radius	N/A	N/A	Not allowed	N/A	5'-6'[4]	N/A	N/A
Cul-De-Sac Bulbs in Residential Zones	47' radius	40' radius	N/A	N/A	Not allowed	N/A	5'-6'[4]	N/A	N/A
Upper Hall Boulevard [7]	94'	64'	3	11'	8'	6'	10.5'	4'	14'
Downtown Mixed Use 1 – Downtown Collector	66'-70'	46'	2	10'	8'	5'	6-8'	4'	N/A
Downtown Mixed Use 2 – Downtown Neighborhood	58'-62'	38'	2	11'	8'	N/A	6-8'	4'	N/A
Downtown Mixed Use 3 – Upper Burnham	62'-74'	38'	2	11'	8'	N/A	6-8'	5.5-9.5'	N/A

Table 18.910.1
Minimum Widths for Street Characteristics and Downtown Street Character Types

Type of Street	Right-of-Way Width	Paved Width	Number of Lanes	Min. Lane Width	On-Street Parking Width	Bike Lane Width	Sidewalk Width	Landscape Strip Width (exclusive of curb)	Median Width
Downtown Mixed Use 4 – Lower Burnham	68'-72'	48'	2	10'	8'	N/A	6-8'	4'	12'
Downtown – Urban Residential	52'-56'	32'	1	18'	7'	N/A	6-8'	4'	N/A
Alley: Residential	16'	16'	N/A	N/A	Not allowed	N/A	N/A	N/A	N/A
Alley: Business	20'	20'	N/A	N/A	Not allowed	N/A	N/A	N/A	N/A

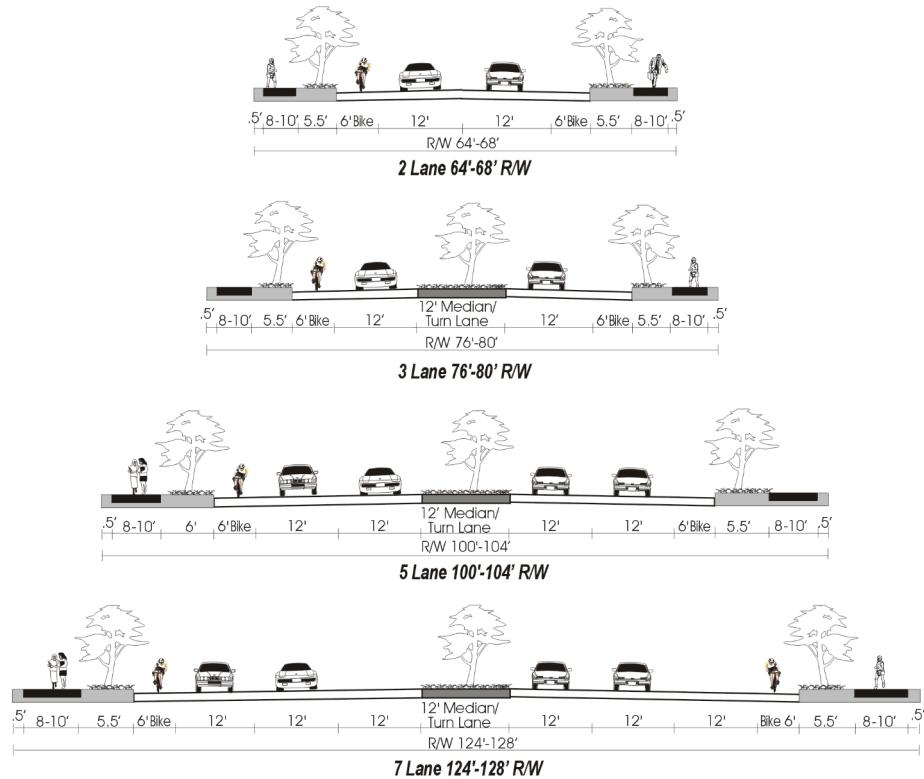
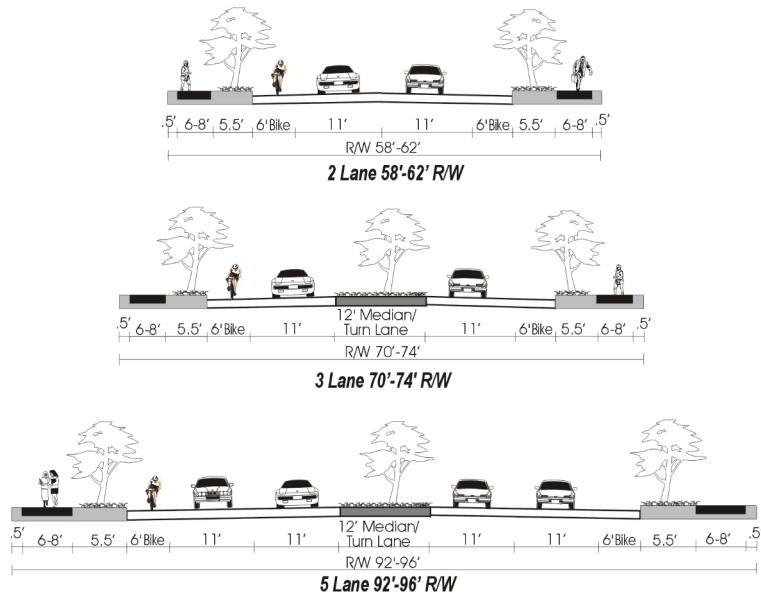
Notes:

[1]	Medians required for 5- and 7-lane roadways. They are optional for 3-lane roadways.
[2]	Parking is allowed on collectors within the downtown urban renewal district.
[3]	Bicycle lane requirements on collectors within the downtown urban renewal district shall be determined by the City Engineer.
[4]	Sidewalk widths for these streets shall be 5 feet with landscape strip; 6 feet if against curb (if permitted in compliance with Subsection 18.910.070.C).
[5]	Unstriped street.
[6]	"Skinny street" roadway widths are permitted where cross section and review criteria are met. Refer to corresponding cross sections (Figures 18.910.3, 18.910.4 and 18.910.5) for details and conditions.

Notes:

[7]

SW Hall Boulevard is currently an ODOT facility. The 2035 Tigard Transportation System Plan recommends that a corridor plan be completed for the SW Hall Boulevard Corridor. The street character standards for Upper Hall Boulevard shall not be considered final until the corridor plan is complete.

Figure 18.910.1 Arterial Sample Cross Sections**Figure 18.910.2 Collector Sample Cross Sections [1]**

[1]

Parking is allowed on collectors within the downtown urban renewal district. Bike lane requirements on these same collectors shall be determined by the City Engineer.

Figure 18.910.3 Neighborhood Routes Sample Cross Sections

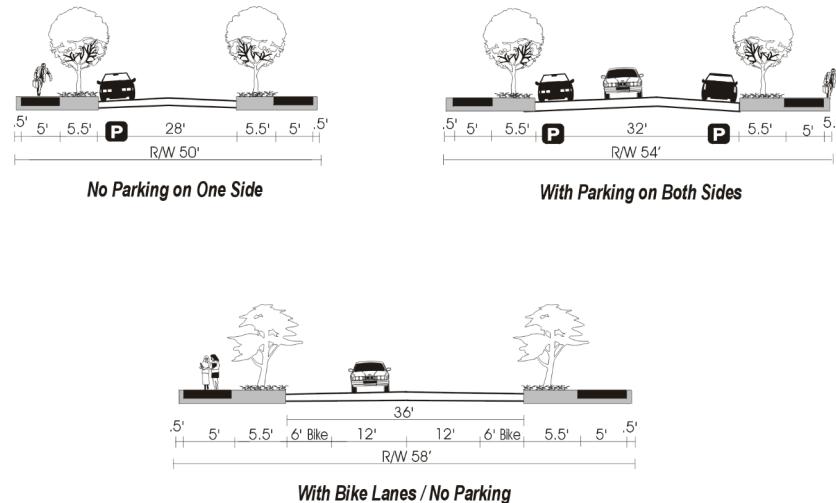
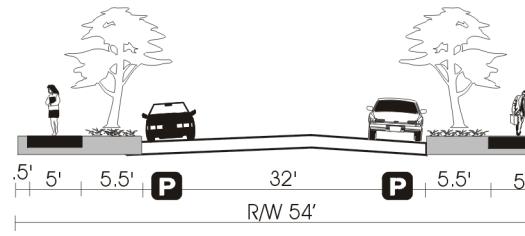


Figure 18.910.4
Local Residential Street < 1,500 vpd

A. Standard (sample)

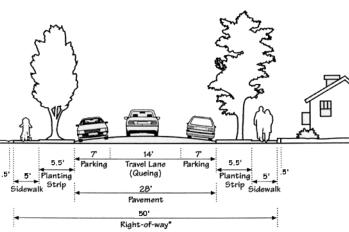


On-street Parking

<1500 vpd *

If parking on both sides,
block length not to exceed 600 feet

B. Skinny Street Option (criteria)

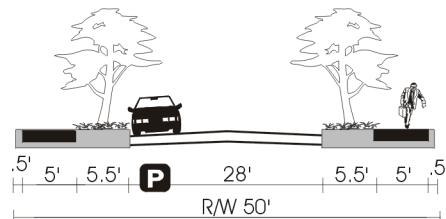


Criteria:

- Traffic flow plan must be submitted and approved.
- Not appropriate for streets serving more than 1,000 vpd.
- No parking permitted within 30 feet of an intersection.
- Appropriate adjacent to small form residential development only.

Figure 18.910.5
Local Residential Street < 500 vpd

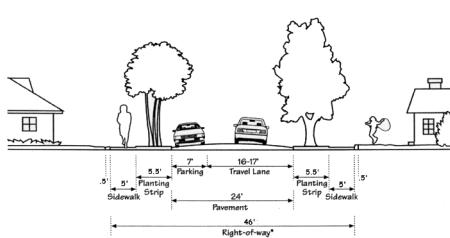
A. Standard (sample)

**Residential Local Street/Cul-de-sac**

One Side On-street Parking

<500 vpd

B. Skinny Street Option (criteria)

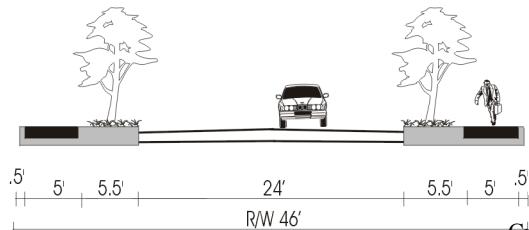


Criteria:

- Traffic flow plan must be submitted and approved.
- Not appropriate for streets serving more than 500 vpd.
- No parking permitted within 30 feet of an intersection.
- Appropriate adjacent to small form residential development only.
- Must provide a minimum of 1 off-street parking space for every 20 feet of restricted street frontage.

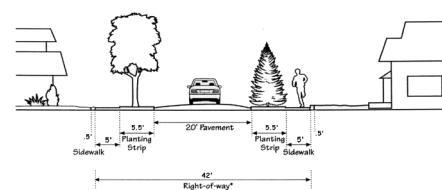
Figure 18.910.6
Local Residential Street < 200 vpd

A. Standard (sample)

**Cul-de-sac/Residential Local Street****<200 vpd**

(No parking)

B. Skinny Street Option (criteria)



Criteria:

- Must provide a minimum of 1 off-street parking space for every 20 feet of restricted street frontage.
- No parking permitted within 30 feet of an intersection.

Figure 18.910.7 Upper Hall Boulevard

Note: SW Hall Boulevard is currently an ODOT facility. The 2035 Tigard Transportation System Plan recommends that a corridor plan be completed for the SW Hall Boulevard Corridor. The street character standards for Upper Hall Boulevard shall not be considered final until the corridor plan is complete.

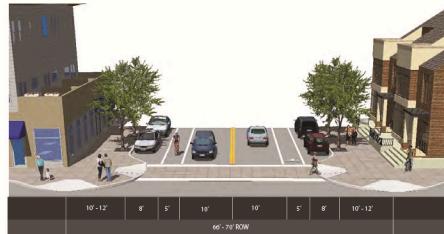
Figure 18.910.8 Downtown Mixed Use 1 - Downtown Collector**Figure 18.910.9 Downtown Mixed Use 2 - Downtown Neighborhood****Figure 18.910.10 Downtown Mixed Use 3 - Upper Burnham****Figure 18.910.11 Downtown Mixed Use 4 - Lower Burnham**

Figure 18.910.12 Downtown – Urban Residential**Figure 18.910.13 Alley: Business**

Note: Permeable pavers are optional.

F. Future street plan and extension of streets.

1. A future street plan shall:
 - a. Be filed by the applicant in conjunction with an application for a subdivision or partition. The plan shall show the pattern of existing and proposed future streets from the boundaries of the proposed land division and shall include other lots within 530 feet surrounding and adjacent to the proposed land division. At the applicant's request, the city may prepare a future streets proposal. Costs of the city preparing a future streets proposal shall be reimbursed for the time involved. A street proposal may be modified when subsequent subdivision proposals are submitted.
 - b. Identify existing or proposed bus routes, pullouts or other transit facilities, bicycle routes and pedestrian facilities on or within 530 feet of the site.
2. Where necessary to give access or permit a satisfactory future division of adjoining land, streets shall be extended to the boundary lines of the tract to be developed, and
 - a. These extended streets or street stubs to adjoining properties are not considered to be cul-de-sac since they are intended to continue as through streets at such time as the adjoining property is developed.
 - b. A barricade shall be constructed at the end of the street by the property owners which shall not be removed until authorized by the City Engineer, the cost of which shall be included in the street construction cost.
 - c. Temporary hammerhead turnouts or temporary cul-de-sac bulbs shall be constructed for stub street in excess of 150 feet in length.

G. Street spacing and access management. Refer to 18.920.030.H.

H. Street alignment and connections.

1. Full street connections with spacing of no more than 530 feet between connections is required except where prevented by barriers such as topography, railroads, freeways, pre-existing developments, lease provisions, easements, covenants or other restrictions existing prior to May 1, 1995 which preclude street connections. A full street connection may also be exempted due to a regulated water feature if regulations would not permit construction.
2. All local, neighborhood routes and collector streets which abut a development site shall be extended within the site to provide through circulation when not precluded by environmental or topographical constraints, existing development patterns or strict adherence to other standards in this code. A street connection or extension is considered precluded when it is not possible to redesign or reconfigure the street pattern to provide required extensions. Land is considered topographically constrained if the slope is greater than 15 percent for a distance of 250 feet or more. In the case of environmental or topographical constraints, the mere presence of a constraint is not sufficient to show that a street connection is not possible. The applicant must show why the constraint precludes some reasonable street connection.
3. Proposed street or street extensions shall be located to provide direct access to existing or planned transit stops, commercial services, and other neighborhood facilities, such as schools, shopping areas and parks.
4. All developments should provide an internal network of connecting streets that provide short, direct travel routes and minimize travel distances within the development.

I. Intersection angles. Streets shall be laid out so as to intersect at an angle as near to a right angle as practicable, except where topography requires a lesser angle, but in no case shall the angle be less than 75° unless there is special intersection design, and:

1. Streets shall have at least 25 feet of tangent adjacent to the right-of-way intersection unless topography requires a lesser distance;
2. Intersections which are not at right angles shall have a minimum corner radius of 20 feet along the right-of-way lines of the acute angle; and
3. Right-of-way lines at intersection with arterial streets shall have a corner radius of not less than 20 feet.

J. Existing rights-of-way. Whenever existing rights-of-way adjacent to or within a tract are of less than standard width, additional rights-of-way shall be provided at the time of subdivision or development.

K. Partial street improvements. Partial street improvements resulting in a pavement width of less than 20 feet, while generally not acceptable, may be approved where essential to reasonable development when in conformity with the other requirements of these regulations, and when it will be practical to require the improvement of the other half when the adjoining property developed.

L. Cul-de-sacs. A cul-de-sac shall be no more than 200 feet long, shall not provide access to greater than 20 dwelling units, and shall only be used when environmental or topographical constraints, existing development pattern, or strict adherence to other standards in this code preclude street extension and through circulation:

1. All cul-de-sac shall terminate with a turnaround. Use of turnaround configurations other than circular shall be approved by the City Engineer; and
2. The length of the cul-de-sac shall be measured from the centerline intersection point of the 2 streets to the radius point of the bulb.
3. If a cul-de-sac is more than 300 feet long, a lighted direct pathway to an adjacent street may be required to be provided and dedicated to the city.

M. Street names. No street name shall be used which will duplicate or be confused with the names of existing streets in Washington County, except for extensions of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area and as approved by the City Engineer.

N. Grades and curves.

1. Grades shall not exceed 10 percent on arterials, 12 percent on collector streets, or 12 percent on any other street (except that local or residential access streets may have segments with grades up to 15 percent for distances of no greater than 250 feet); and
2. Centerline radii of curves shall be as determined by the City Engineer.

O. Curbs, curb cuts, ramps, and driveway approaches. Concrete curbs, curb cuts, wheelchair, bicycle ramps and driveway approaches shall be constructed in compliance with standards specified in this chapter and Chapter 15.04, Work in the Right-of-Way, and:

1. Concrete curbs and driveway approaches are required; except:
2. Where no sidewalk is planned, an asphalt approach may be constructed with City Engineer approval; and
3. Asphalt and concrete driveway approaches to the property line shall be built to city configuration standards.

P. Streets adjacent to railroad right-of-way. Wherever the proposed development contains or is adjacent to a railroad right-of-way, provision shall be made for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land. The distance shall be determined with due consideration at cross streets or the minimum distance required for approach grades and to provide sufficient depth to allow screen planting along the railroad right-of-way in non-industrial areas.

Q. Access to arterials and collectors. Where a development abuts or is traversed by an existing or proposed arterial or collector street, the development design shall provide adequate protection for residential properties and shall separate residential access and through traffic, or if separation is not feasible, the design shall minimize the traffic conflicts. The design shall include any of the following:

1. A parallel access street along the arterial or collector;

2. Lots of suitable depth abutting the arterial or collector to provide adequate buffering with frontage along another street;
3. Screen planting at the rear or side property line to be contained in a nonaccess reservation along the arterial or collector; or
4. Other treatment suitable to meet the objectives of this subsection;
5. If a lot has access to 2 streets with different classifications, primary access should be from the lower classification street.

R. Alleys, public or private.

1. Alleys shall be no less than 20 feet in width. In commercial and industrial zones, alleys shall be provided unless other permanent provisions for access to off-street parking and loading facilities are made.
2. While alley intersections and sharp changes in alignment shall be avoided, the corners of necessary alley intersections shall have a radius of not less than 12 feet.

S. Survey monuments. Upon completion of a street improvement and prior to acceptance by the city, it shall be the responsibility of the developer's registered professional land surveyor to provide certification to the city that all boundary and interior monuments shall be reestablished and protected.

T. Private streets.

1. Design standards for private streets shall be established by the City Engineer; and
2. The city shall require legal assurances for the continued maintenance of private streets, such as a recorded maintenance agreement.
3. Private streets serving more than 6 dwelling units are permitted only within planned developments, mobile home parks, cottage cluster, courtyard units, and apartment developments.

U. Railroad crossings. Where an adjacent development results in a need to install or improve a railroad crossing, the cost for such improvements may be a condition of development approval, or another equitable means of cost distribution shall be determined by the public works director and approved by the commission.

V. Street signs. The city shall install all street signs, relative to traffic control and street names, as specified by the City Engineer for any development. The cost of signs shall be the responsibility of the developer.

W. Mailboxes. Joint mailbox facilities shall be provided in all residential developments, with each joint mailbox serving at least 2 dwelling units.

1. Joint mailbox structures shall be placed adjacent to roadway curbs;
2. Proposed locations of joint mailboxes shall be designated on the preliminary plat or development plan, and shall be approved by the City Engineer/U.S. Post Office prior to final plan approval; and
3. Plans for the joint mailbox structures to be used shall be submitted for approval by

the City Engineer/U.S. Post Office prior to final approval.

- X. Traffic signals. The location of traffic signals shall be noted on approved street plans. Where a proposed street intersection will result in an immediate need for a traffic signal, a signal meeting approved specifications shall be installed. The cost shall be included as a condition of development.
- Y. Street light standards. Street lights shall be installed in compliance with regulations adopted by the city's direction.
- Z. Street name signs. Street name signs shall be installed at all street intersections. Stop signs and other signs may be required.
- AA. Street cross-sections. The final lift of asphalt concrete pavement shall be placed on all new constructed public roadways prior to final city acceptance of the roadway and within 1 year of the conditional acceptance of the roadway unless otherwise approved by the City Engineer. The final lift shall also be placed no later than when 90 percent of the structures in the new development are completed or 3 years from the commencement of initial construction of the development, whichever is less.
 - 1. Sub-base and leveling course shall be of select crushed rock;
 - 2. Surface material shall be of Class C or B asphaltic concrete;
 - 3. The final lift shall be placed on all new construction roadways prior to city final acceptance of the roadway; however, not before 90 percent of the structures in the new development are completed unless 3 years have elapsed since initiation of construction in the development;
 - 4. The final lift shall be Class C asphaltic concrete as defined by A.P.W.A. standard specifications; and
 - 5. No lift shall be less than 1.5 inches in thickness.
- BB. Traffic calming. When, in the opinion of the City Engineer, the proposed development will create a negative traffic condition on existing neighborhood streets, such as excessive speeding, the developer may be required to provide traffic calming measures. These measures may be required within the development or offsite as deemed appropriate. As an alternative, the developer may be required to deposit funds with the city to help pay for traffic calming measures that become necessary once the development is occupied and the City Engineer determines that the additional traffic from the development has triggered the need for traffic calming measures. The City Engineer will determine the amount of funds required and will collect said funds from the developer prior to the issuance of a certificate of occupancy, or in the case of subdivision, prior to the approval of the final plat. The funds will be held by the city for a period of 5 years from the date of issuance of certificate of occupancy, or in the case of a subdivision, the date of final plat approval. Any funds not used by the city within the 5-year time period will be refunded to the developer.
- CC. Traffic study.
 - 1. A traffic study shall be required for all new or expanded uses or developments under any of the following circumstances:

- a. When they generate a 10 percent or greater increase in existing traffic to high collision intersections identified by Washington County.
- b. Trip generations from development onto the city street at the point of access and the existing ADT fall within the following ranges:

Existing ADT	ADT to be added by development
0—3,000 vpd	2,000 vpd
3,001—6,000 vpd	1,000 vpd
>6,000 vpd	500 vpd or more

- c. If any of the following issues become evident to the City Engineer:
 - i. High traffic volumes on the adjacent roadway that may affect movement into or out of the site.
 - ii. Lack of existing left-turn lanes onto the adjacent roadway at the proposed access drive.
 - iii. Inadequate horizontal or vertical sight distance at access points.
 - iv. The proximity of the proposed access to other existing drives or intersections is a potential hazard.
 - v. The proposal requires a conditional use permit or involves a drive-through operation.
 - vi. The proposed development may result in excessive traffic volumes on adjacent local streets.
- 2. In addition, a traffic study may be required for all new or expanded uses or developments under any of the following circumstances:
 - a. When the site is within 500 feet of an ODOT facility; or
 - b. Trip generation from a development adds 300 or more vehicle trips per day to an ODOT facility; or
 - c. Trip generation from a development adds 50 or more peak hour trips to an ODOT facility.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 20-01 §1; Ord. 22-06 §2)

§ 18.910.040. Blocks.

- A. Block design. The length, width and shape of blocks shall be designed with due regard to providing adequate building sites for the use contemplated, consideration of needs for convenient access, circulation, control and safety of street traffic and recognition of limitations and opportunities of topography.
- B. Sizes.
 - 1. The perimeter of blocks formed by streets shall not exceed 2,000 feet measured along the centerline of the streets except:

- a. Where street location is precluded by natural topography, wetlands, significant habitat areas or bodies of water, or pre-existing development; or
 - b. For blocks adjacent to arterial streets, limited access highways, collectors or railroads.
 - c. For nonresidential blocks in which internal public circulation provides equivalent access.
2. Bicycle and pedestrian connections on public easements or rights-of-way shall be provided when full street connection is exempted by Paragraph 18.910.040.B.1. Spacing between connections shall be no more than 330 feet, except where precluded by environmental or topographical constraints, existing development patterns, or strict adherence to other standards in the code.

(Ord. 17-22 §2)

§ 18.910.050. Easements.

- A. Easements. Easements for sewers, drainage, water mains, electric lines or other public utilities shall be either dedicated or provided for in the deed restrictions, and where a development is traversed by a watercourse or drainageway, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of the watercourse.
- B. Utility easements. A property owner proposing a development shall make arrangements with the city, the applicable district, and each utility franchise for the provision and dedication of utility easements necessary to provide full services to the development. The city's standard width for public main line utility easements shall be 15 feet unless otherwise specified by the utility company, applicable district, or City Engineer.

(Ord. 17-22 §2)

§ 18.910.060. (Reserved)

§ 18.910.070. Sidewalks.

- A. Sidewalks. All public and private streets adjacent to industrially zoned properties shall have sidewalks meeting city standards along at least one side of the street. All other public and private streets shall have sidewalks meeting city standards along both sides of the street. A development may be approved if an adjoining street has sidewalks on the side adjoining the development, even if no sidewalk exists on the other side of the street.
- B. Requirement of developers.
 1. As part of any development proposal or change in use resulting in an additional 1,000 vehicle trips or more per day, an applicant shall be required to identify direct, safe ($1.25 \times$ the straight line distance) pedestrian routes within 0.50 miles of their site to all transit facilities and neighborhood activity centers (schools, parks, libraries, etc.). In addition, the developer may be required to participate in the removal of any gaps in the pedestrian system off-site if justified by the development.
 2. If there is an existing sidewalk on the same side of the street as the development within 300 feet of a development site in either direction, the sidewalk shall be

extended from the site to meet the existing sidewalk, subject to rough proportionality (even if the sidewalk does not serve a neighborhood activity center).

- C. Planter strip requirements. A planter strip separation of at least 5 feet between the curb and the sidewalk shall be required in the design of streets, except where the following conditions exist: there is inadequate right-of-way; the curbside sidewalks already exist on predominant portions of the street; it would conflict with the utilities; there are significant natural features (large trees, water features, significant habitat areas, etc.) that would be destroyed if the sidewalk were located as required; or where there are existing structures in close proximity to the street (15 feet or less) or where the standards in Table 18.910.1 specify otherwise. Additional consideration for exempting the planter strip requirement may be given on a case-by-case basis if a property abuts more than one street frontage.
- D. Maintenance. Maintenance of sidewalks, curbs, and planter strips is the continuing obligation of the adjacent property owner.
- E. Application for permit and inspection. Separate street opening permits are required for sidewalk segments that are not part of a current subdivision approval:
 - 1. An occupancy permit shall not be issued for a development until the provisions of this section are satisfied.
 - 2. The City Engineer may issue a permit and certificate allowing temporary noncompliance with the provisions of this section to the owner, builder or contractor when, in his or her opinion, the construction of the sidewalk is impractical for one or more of the following reasons:
 - a. Sidewalk grades have not and cannot be established for the property in question within a reasonable length of time;
 - b. Forthcoming installation of public utilities or street paving would be likely to cause severe damage to the new sidewalk;
 - c. Street right-of-way is insufficient to accommodate a sidewalk on 1 or both sides of the street; or
 - d. Topography or elevation of the sidewalk base area makes construction of a sidewalk impractical or economically infeasible.
 - 3. The City Engineer shall inspect the construction of sidewalks for compliance with the provision set forth in the standard specifications manual.
- F. Council initiation of construction. In the event one or more of the following situations are found by the council to exist, the council may adopt a resolution to initiate construction of a sidewalk in accordance with city ordinances:
 - 1. A safety hazard exists for children walking to or from school and sidewalks are necessary to eliminate the hazard;
 - 2. A safety hazard exists for pedestrians walking to or from a public building, commercial area, place of assembly or other general pedestrian traffic, and sidewalks are necessary to eliminate the hazard;
 - 3. Fifty percent or more of the area in a given block has been improved by the

construction of dwellings, multiple dwellings, commercial buildings or public buildings or parks; and

4. A criterion which allowed noncompliance under this chapter no longer exists and a sidewalk could be constructed in compliance with city standards.

(Ord. 17-22 §2)

§ 18.910.080. Public Use Areas.

A. Dedication requirements.

1. Where a proposed park, playground, or other public use shown in a development plan adopted by the city is located in whole or in part in a subdivision, the commission may require the dedication or reservation of such area within the subdivision, provided that the reservation or dedication is roughly proportional to the impact of the subdivision on the park system.
 2. Where considered desirable by the commission in compliance with adopted comprehensive plan policies, and where a development plan of the city does not indicate proposed public use areas, the commission may require the dedication or reservation of areas within the subdivision or sites of a character, extent and location suitable for the development of parks or other public use, provided that the reservation or dedication is roughly proportional to the impact of the subdivision on the park system.
- B. Acquisition by public agency. If the developer is required to reserve land area for a park, playground, or other public use, such land shall be acquired by the appropriate public agency within 18 months following plat approval, at a price agreed upon prior to approval of the plat, or such reservation shall be released to the subdivider.

(Ord. 17-22 §2)

§ 18.910.090. Sanitary Sewers.

- A. Sewers required. Sanitary sewers shall be installed to serve each new development and to connect developments to existing mains in compliance with Clean Water Services requirements and the-comprehensive plan.
- B. Sewer plan approval. The City Engineer shall approve all sanitary sewer plans and proposed systems prior to issuance of development permits involving sewer service.
- C. Over-sizing. Proposed sewer systems shall include consideration of additional development within the area as projected by the comprehensive plan.
- D. Permits denied. Development permits may be restricted by the approval authority where a deficiency exists in the existing sewer system or portion thereof which cannot be rectified within the development and which if not rectified will result in a threat to public health or safety, surcharging of existing mains, or violations of state or federal standards pertaining to operation of the sewage treatment system.

(Ord. 17-22 §2)

§ 18.910.100. Storm Drainage.

- A. General provisions. The Director and City Engineer shall issue a development permit only where adequate provisions for stormwater and floodwater runoff have been made, and:
 1. The storm water drainage system shall be separate and independent of any sanitary sewerage system;
 2. Where possible, inlets shall be provided so surface water is not carried across any intersection or allowed to flood any street; and
 3. Surface water drainage patterns shall be shown on every development proposal plan.
- B. Easements. Where a development is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width as will be adequate for conveyance and maintenance.
- C. Accommodation of upstream drainage. A culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the development, and the City Engineer shall approve the necessary size of the facility, based on Clean Water Services requirements.
- D. Effect on downstream drainage. Where it is anticipated by the City Engineer that the additional runoff resulting from the development will overload an existing drainage facility, the director and engineer shall withhold approval of the development until provisions have been made for improvement of the potential condition or until provisions have been made for storage of additional runoff caused by the development in compliance with Clean Water Services requirements.

(Ord. 17-22 §2)

§ 18.910.110. Bikeways and Pedestrian Pathways.

- A. Bikeway extension.
 1. As a standard, bike lanes shall be required along all arterial and collector routes and where identified on the city's adopted bicycle plan in the transportation system plan (TSP). Bike lane requirements along collectors within the downtown urban renewal district shall be determined by the City Engineer unless specified in Table 18.910.1.
 2. Developments adjoining proposed bikeways identified on the city's adopted pedestrian/bikeway plan shall include provisions for the future extension of such bikeways through the dedication of easements or rights-of-way, provided such dedication is directly related to and roughly proportional to the impact of the development.
 3. Any new street improvement project shall include bicycle lanes as required in this chapter and on the adopted bicycle plan.
- B. Cost of construction. Development permits issued for planned developments, conditional use permits, subdivisions and other developments which will principally benefit from such bikeways shall be conditioned to include the cost or construction of bikeway improvements in an amount roughly proportional to the impact of the development.
- C. Minimum width.

1. The minimum width for bikeways within the roadway is 5 feet per bicycle travel lane.
2. The minimum width for multi-use paths separated from the road and classified as regional or community trails in the Greenway Trail System Master Plan is 10 feet. The width may be reduced to 8 feet if there are environmental or other constraints.
3. The minimum width for off-street paths classified as neighborhood trails, according to the Greenway Trail System Master Plan, is 3 feet.
4. Design standards for bike and pedestrian-ways shall be determined by the City Engineer.

(Ord. 17-22 §2)

§ 18.910.120. Utilities.

- A. Underground utilities. All utility lines including, but not limited to those required for electric, communication, lighting and cable television services and related facilities shall be placed underground, except for surface mounted transformers, surface mounted connection boxes and meter cabinets which may be placed above ground, temporary utility service facilities during construction, high capacity electric lines operating at 50,000 volts or above, and:
 1. The developer shall make all necessary arrangements with the serving utility to provide the underground services;
 2. The city reserves the right to approve location of all surface mounted facilities;
 3. All underground utilities, including sanitary sewers and storm drains installed in streets by the developer, shall be constructed prior to the surfacing of the streets; and
 4. Stubs for service connections shall be long enough to avoid disturbing the street improvements when service connections are made.
- B. Information on development plans. The applicant for a development shall show on the development plan or in the explanatory information, easements for all underground utility facilities, and:
 1. Plans showing the location of all underground facilities as described herein shall be submitted to the City Engineer for review and approval; and
 2. Care shall be taken in all cases to ensure that above ground equipment does not obstruct vision clearance areas for vehicular traffic.
- C. Exception to undergrounding requirement.
 1. The developer shall pay a fee in-lieu of undergrounding costs when the development is proposed to take place on a street where existing utilities which are not underground will serve the development and the approval authority determines that the cost and technical difficulty of under-grounding the utilities outweighs the benefit of undergrounding in conjunction with the development. The determination shall be on a case-by-case basis. The most common, but not the only, such situation is a short frontage development for which undergrounding would result in the placement of additional poles, rather than the removal of above-ground utilities facilities.

2. An applicant for a development which is served by utilities which are not underground and which are located across a public right-of-way from the applicant's property shall pay the fee in-lieu of undergrounding.
 3. Properties within the MU-CBD zone shall be exempt from the requirements for undergrounding of utility lines and from the fee in-lieu of undergrounding.
 4. The exceptions in Paragraphs 18.910.120.C.1 through 3 shall apply only to existing utility lines. All new utility lines shall be placed underground.
- D. Fee in-lieu of undergrounding.
1. The City Engineer shall establish utility service areas in the city. All development which occurs within a utility service area shall pay a fee in-lieu of undergrounding for utilities if the development does not provide underground utilities, unless exempted by this chapter.
 2. The City Engineer shall establish the fee by utility service area which shall be determined based upon the estimated cost to underground utilities within each service area. The total estimated cost for undergrounding in a service area shall be allocated on a front-foot basis to each party within the service area. The fee due from any developer shall be calculated based on a front-foot basis.
 3. A developer shall receive a credit against the fee for costs incurred in the undergrounding of existing overhead utilities. The City Engineer shall determine the amount of the credit, after review of cost information submitted by the applicant with the request for credit.
 4. The funds collected in each service area shall be used for undergrounding utilities within the city at large. The City Engineer shall prepare and maintain a list of proposed undergrounding projects which may be funded with the fees collected by the city. The list shall indicate the estimated timing and cost of each project. The list shall be submitted to the city council for their review and approval annually.

(Ord. 17-22 §2)

§ 18.910.130. Cash or Bond Required.

- A. Guarantee. All improvements installed by the developer shall be guaranteed as to workmanship and material for a period of 1 year following acceptance by the city council.
- B. Cash deposit or bond. Such guarantee shall be secured by cash deposit or bond in the amount of the value of the improvements as set by the City Engineer.
- C. Compliance requirements. The cash or bond shall comply with the terms and conditions of Section 18.830.070.

(Ord. 17-22 §2)

§ 18.910.140. Monuments—Replacement Required.

Any monuments that are disturbed before all improvements are completed by the subdivider shall be replaced prior to final acceptance of the improvements.

(Ord. 17-22 §2)

§ 18.910.150. Installation Prerequisite.

- A. Approval required. No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting or other requirements shall be undertaken except after the plans have been approved by the city, permit fee paid, and permit issued.
- B. Permit fee. The permit fee is required to defray the cost and expenses incurred by the city for construction and other services in connection with the improvement. The permit fee shall be set by council resolution.

(Ord. 17-22 §2)

§ 18.910.160. (Reserved)

§ 18.910.170. Plan Check.

- A. Submittal requirements. Work shall not begin until construction plans and construction estimates have been submitted and checked for adequacy and approved by the City Engineer in writing. The developer can obtain detailed information about submittal requirements from the City Engineer.
- B. Compliance. All such plans shall be prepared in compliance with requirements of the city.

(Ord. 17-22 §2)

§ 18.910.180. Notice to City.

- A. Commencement. Work shall not begin until the city has been notified in advance.
- B. Resumption. If work is discontinued for any reason, it shall not be resumed until the city is notified.

(Ord. 17-22 §2)

§ 18.910.190. City Inspection of Improvements.

Improvements shall be constructed under the inspection and to the satisfaction of the city. The city may require changes in typical sections and details if unusual conditions arising during construction warrant such changes in the public interest.

(Ord. 17-22 §2)

§ 18.910.200. Engineer's Written Certification Required.

The developer's engineer shall provide written certification of a form provided by the city that all improvements, workmanship, and materials are in accord with current and standard engineering and construction practices, and are of high grade, prior to city acceptance of the subdivision's improvements or any portion thereof for operation and maintenance.

(Ord. 17-22 §2)

**CHAPTER 18.920
Access, Egress, and Circulation**

§ 18.920.010. Purpose.

The purpose of this chapter is to establish standards and regulations for safe and efficient vehicle access and egress on a site and for general circulation within the site.

(Ord. 17-22 §2)

§ 18.920.020. Applicability.

- A. Applicability. The provisions of this chapter apply to all development including the construction of new structures, the remodeling of existing structures, and to a change of use that increases the on-site parking or loading requirements or changes the access requirements.
- B. Change or enlargement of use. Should the owner or occupant of a lot or building change or enlarge the use to which the lot or building is put, thereby increasing access and egress requirements, it is unlawful and is a violation of this title to begin or maintain such altered use until the provisions of this chapter have been met if required or until the appropriate approval authority has approved the change.
- C. When site design review is not required. Where the provisions of Chapter 18.780, Site Development Review, do not apply, the approval authority will approve, approve with conditions, or deny an access plan submitted under the provisions of this chapter in conjunction with another permit or land use action.
- D. Conflict with subdivision requirements. The requirements and standards of this chapter do not apply where they conflict with the subdivision requirements of this title.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.920.030. General Provisions.

- A. Continuing obligation of property owner. The provisions and maintenance of access and egress provided in this chapter are continuing requirements for the use of any structure or lot of real property in the city.
- B. Access plan requirements. A plan demonstrating compliance with the access, egress, and circulation requirements of this Chapter must be provided prior to any land use approval or development permit issuance.
- C. Joint access. Owners of two or more uses, structures, or lots of land may agree to utilize jointly the same access and egress when the combined access and egress of all uses, structures, or units of land meets the combined requirements of this chapter, provided:
 - 1. Satisfactory legal evidence must be presented in the form of deeds, easements, leases, or contracts to establish the joint use; and
 - 2. Copies of the deeds, easements, leases, or contracts are placed on permanent file with the city.
- D. Public street access. All vehicular access and egress as required in Subsections 18.920.030.H, I and J must connect directly with a public or private street approved by the

city for public use and must be maintained at the required standards on a continuous basis.

- E. Surfacing. Driveways and drive aisles must be paved with a dust-free, hard-surfaced material, or utilize a turf grid or open joint pavers.
- F. Curb cuts. Curb cuts must be in compliance with Subsection 18.910.030.O.
- G. Pedestrian access. Paths for pedestrian access and circulation are required to, through, and sometimes between development sites. Path standards are provided in 18.200 Residential Development Standards, 18.300 Nonresidential Development Standards, and Chapter 18.410, Off-Street Parking and Loading. Additional standards may also apply if the site is located in a plan district.
- H. Inadequate or hazardous access.
 - 1. Applications for development permits will be referred to the Director for review when, in the opinion of the Director, the access proposed:
 - a. Would cause or increase existing hazardous traffic conditions; or
 - b. Would provide inadequate access for emergency vehicles; or
 - c. Would in any other way cause hazardous conditions to exist that would constitute a clear and present danger to the public health, safety, and general welfare.
 - 2. Direct individual access to arterial or collector streets from small form residential development lots is discouraged. Direct access to collector or arterial streets will be considered only if there is no practical alternative way to access the site. If direct access is allowed by the city, the applicant will be required to mitigate for any safety or neighborhood traffic management (NTM) impacts deemed applicable by the City Engineer. This may include, but will not be limited to, the construction of a vehicle turnaround on the site to eliminate the need for a vehicle to back out onto the roadway.
 - 3. The design of the service drive or drives must not require or facilitate the backward movement or other maneuvering of a vehicle within a street, other than an alley. Small form residential development is exempt from this requirement.
- I. Access management.
 - 1. An access report must be submitted with all new development that verifies design of driveways and streets are safe by meeting adequate stacking needs, sight distance, and deceleration standards as set by ODOT, Washington County, the city, and AASHTO (depending on jurisdiction of facility).
 - 2. Driveways must not be placed in the influence area of collector or arterial street intersections. Influence area of intersections is that area where queues of traffic commonly form on approach to an intersection. The minimum driveway setback from a collector or arterial street intersection is 150 feet, measured from the right-of-way line of the intersecting street to the throat of the proposed driveway. The setback may be greater depending upon the influence area, as determined from City Engineer review of a traffic impact report submitted by the applicant's traffic engineer. In a case where a development has less than 150 feet of street frontage, the applicant must

explore any option for shared access with the adjacent lot. If shared access is not possible or practicable, the driveway must be placed as far from the intersection as possible.

3. The minimum spacing of driveways and streets along a collector is 200 feet. The minimum spacing of driveways and streets along an arterial is 600 feet.
4. The minimum spacing of local streets along a local street is 125 feet.

J. Minimum access requirements for residential uses.

1. Vehicular access and egress for residential uses must comply with the standards provided in Table 18.920.1.

**Table 18.920.1
Vehicular Access/Egress Requirements: Residential Uses**

Housing Type	Minimum Driveways Required	Minimum Access Required	Minimum Pavement Width
Small Form Residential	1	10 ft	10 ft
Quads	1	15 ft	15 ft
Cottage Clusters	1	20 ft	20 ft
Courtyard Units	1	20 ft	20 ft
Rowhouses	See Chapter 18.280, Rowhouses		
Apartments, 2 units	1	10 ft	10 ft
Apartments, 3-49 units	1	30 ft	24 ft if two-way 15 ft if one-way curbs and 5 ft walkway required
Apartments, 50+ units	2	30 ft	24 ft curbs and 5 ft walkway required

2. Vehicular access to apartment structures must be within 50 feet of the first-story entrance or the first-story landing of a stairway, ramp, or elevator leading to the dwelling units.
3. Private residential access drives must be provided and maintained in compliance with the Oregon Fire Code.
4. Access drives in excess of 150 feet in length must be provided with approved provisions for the turning around of fire apparatus by one of the following:
 - a. A circular, paved surface having a minimum turn radius measured from center point to outside edge of 35 feet;
 - b. A hammerhead-configured, paved surface with each leg of the hammerhead having a minimum depth of 40 feet and a minimum width of 20 feet;

- c. The maximum cross slope of a required turnaround is five percent.
- 5. Vehicle turnouts, (providing a minimum total driveway width of 24 feet for a distance of at least 30 feet), may be required so as to reduce the need for excessive vehicular backing motions in situations where two vehicles traveling in opposite directions meet on driveways in excess of 200 feet in length.
- 6. Where allowed, minimum width for driveway approaches to arterials or collector streets must be at least 20 feet so as to avoid traffic turning from the street having to wait for traffic exiting the site.

K. Minimum access requirements for nonresidential uses.

- 1. Vehicle access, egress, and circulation for nonresidential uses must comply with the standards provided in Table 18.920.2.

**Table 18.920.2
Vehicular Access/Egress Requirements: Nonresidential Uses**

Required Parking Spaces	Minimum Number of Driveways Required	Minimum Access Width	Minimum Pavement
1-99	1	30 ft	24 ft curbs required
100+	2	30 ft	24 ft curbs required
	1	50 ft	40 ft curbs required

- 2. Vehicular access must be provided to nonresidential uses, and be located within 50 feet of the primary first-story entrances;
- 3. Additional requirements for truck traffic may be imposed through conditions of approval of a land use application.
- L. One-way vehicular access points. Where a proposed parking facility indicates only one-way traffic flow on the site, it must be accommodated by a specific driveway serving the facility; the entrance drive must be situated closest to oncoming traffic and the exit drive must be situated farthest from oncoming traffic.

M. Director's authority to restrict access. The Director has the authority to restrict access when the need to do so is dictated by one or more of the following conditions:

- 1. To provide for increased traffic movement on congested streets and to eliminate turning movement problems, the Director may restrict the location of driveways on streets and require the location of driveways be placed on adjacent streets, upon the finding that the proposed access would:
 - a. Cause or increase existing hazardous traffic conditions; or
 - b. Provide inadequate access for emergency vehicles; or
 - c. Cause hazardous conditions to exist that would constitute a clear and present danger to the public health, safety, and general welfare.
- 2. To eliminate the need to use public streets for movements between commercial or

industrial uses, parking areas must be designed to connect with parking areas on adjacent properties unless not feasible. The Director may require access easements between properties where necessary to provide for parking area connections.

3. To facilitate pedestrian and bicycle traffic, access and parking area plans must provide efficient sidewalk or pathway connections, as feasible, between neighboring developments or land uses.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 18-28 §1; Ord. 19-09 §1; Ord. 20-01 §1; Ord. 22-06 §2)

CHAPTER 18.930 Vision Clearance Areas

§ 18.930.010. Purpose.

The purpose of this chapter is to establish standards that will assure proper sight distances at intersections to reduce the hazard from vehicular turning movements.

(Ord. 17-22 §2)

§ 18.930.020. Applicability.

- A. Applicability. The provisions of this chapter apply to all development, including the construction of new structures, the remodeling of existing structures, and to a change of use that increases the on-site parking or loading requirements or changes the access requirements.
- B. When site development review is not required. Where the provisions of Chapter 18.780, Site Development Review, do not apply, the approval authority will approve, approve with conditions, or deny a plan submitted under the provisions of this chapter through a Type I procedure, as provided in Section 18.710.050, using the standards in this chapter.

(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.930.030. Vision Clearance Requirements.

- A. At corners. Except within the MU-CBD zone, a vision clearance area must be maintained on the corners of all property adjacent to the intersection of two streets, a street and a railroad, or a driveway providing access to a public or private street.
- B. Obstructions prohibited. A clear vision area must be maintained free of vehicles, hedges, plantings, fences, wall structures, and temporary or permanent obstructions (except for an occasional utility pole or tree), exceeding 3 feet in height, measured from the top of the curb, or where no curb exists, from the street center line grade. Trees exceeding 3 feet in height may be located in this area, provided all branches below 8 feet are removed.
- C. Additional topographical constraints. Where the crest of a hill or vertical curve conditions contribute to the obstruction of clear vision areas at a street or driveway intersection, hedges, plantings, fences, walls, wall structures, and temporary or permanent obstructions must be further reduced in height or eliminated to comply with the intent of the required clear vision area.

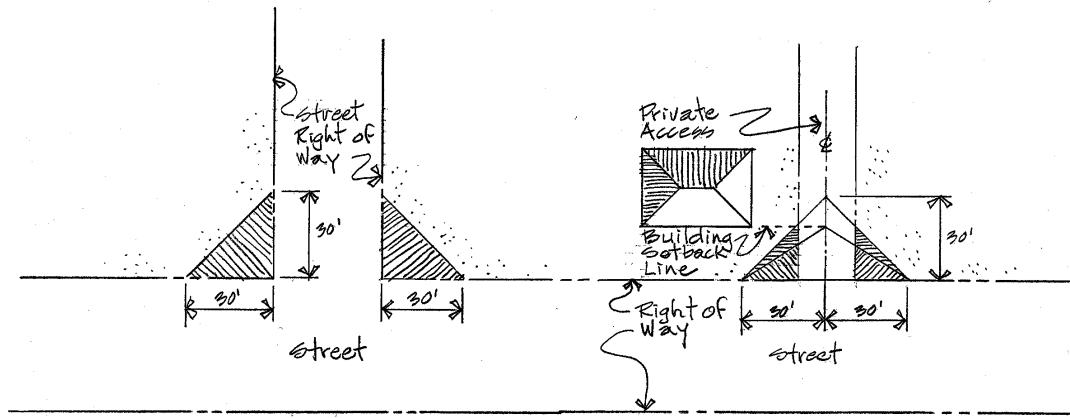
(Ord. 17-22 §2; Ord. 18-23 §2)

§ 18.930.040. Computations.

- A. Arterial streets. The vision clearance area is not less than 35 feet on each side of the intersection.
- B. Non-arterial streets.
 - 1. Non-arterial streets 24 feet or more in width. At all intersections of 2 non-arterial streets, a non-arterial street and a driveway, and a non-arterial street or driveway and railroad where at least 1 of the streets or driveways is 24 feet or more in width, the vision clearance area is a triangle formed by the right-of-way or property lines along

such lots and a straight line joining the right-of-way or property line at points that are 30 feet distance from the intersection of the right-of-way line and measured along such lines. See Figure 18.930.1:

Figure 18.930.1 Illustrations of Vision Clearance Requirements



2. Non-arterial streets less than 24 feet in width. At all intersections of two non-arterial streets, a non-arterial street and a driveway, and a non-arterial street or driveway and railroad where both streets or driveways are less than 24 feet in width, the vision clearance area is a triangle whose base extends 30 feet along the street right-of-way line in both directions from the centerline of the accessway at the front setback line of small form residential, and 30 feet back from the property line on all other types of uses.

(Ord. 17-22 §2; Ord. 18-23 §2; Ord. 22-06 §2)