



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

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Salem, Oregon 97301-2524

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### NOTICE OF ADOPTED AMENDMENT

October 3, 2006

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Happy Valley Plan Amendment  
DLCD File Number 003-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 18, 2006**

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Gloria Gardiner, DLCD Urban Planning Specialist  
Meg Fernekees, DLCD Regional Representative  
Steve Oulman, DLCD Transportation Planner  
Michael Walter, City of Happy Valley

<paa> ya/



**2** Notice of Adoption

THIS FORM MUST BE MAILED TO DLCD  
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

DATE  
STAMP  
DEPT OF  
SEP 28 2006  
LAND CONSERVATION  
AND DEVELOPMENT  
For DLCD Use Only

Jurisdiction: City of Happy Valley Local file number: LDO-04-06  
Date of Adoption: 9-15-06 Date Mailed: 9-27-06  
Date original Notice of Proposed Amendment was mailed to DLCD: 6-06-06

- Comprehensive Plan Text Amendment
- Land Use Regulation Amendment
- New Land Use Regulation
- Comprehensive Plan Map Amendment
- Zoning Map Amendment
- Other: \_\_\_\_\_

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

A broad range of Land Development Code Text Amendments, as well as  
changes to specific policies within the City's Comprehensive Plan.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "SAME".  
If you did not give Notice for the Proposed Amendment, write "N/A".

Substantially the same

Plan Map Changed from: N/A to: N/A  
Zone Map Changed from: N/A to: N/A  
Location: City Wide Acres Involved: N/A  
Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 2, 9, 14

Was and Exception Adopted?  YES  NO

DLCD File No.: 003-06 (15289)

Did the Department of Land Conservation and Development receive a Notice of Proposed Amendment.....

- Forty-five (45) days prior to first evidentiary hearing?  Yes  No  
If no, do the statewide planning goals apply?  Yes  No  
If no, did Emergency Circumstances require immediate adoption?  Yes  No

Affected State or Federal Agencies, Local Governments or Special Districts:

City of Happy Valley, Clackamas County

Local Contact: Michael Walter Phone: (503) 595-6172 Extension: \_\_\_\_\_  
Address: 12915 SE King Road City: Happy Valley  
Zip Code + 4: 97086 - Email Address: michaelw@ci.happy-valley.or.us

## ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **maru.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF HAPPY VALLEY  
ORDINANCE NO. 341

AN ORDINANCE AMENDING TITLE 16 (DEVELOPMENT CODE) OF THE CITY OF HAPPY VALLEY  
MUNICIPAL CODE – ADMINISTRATIVE AMENDMENTS

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

WHEREAS, Application LDO-04-06 was a staff initiated request to amend Title 16 (Development Code) of the Municipal Code as detailed within Exhibit "A"; and

WHEREAS a hearing was held before the City of Happy Valley Planning Commission on July 25, 2006; and

WHEREAS, the Planning Commission unanimously recommended the changes to Title 16 of the Municipal Code as detailed in the Staff Report dated July 25, 2006 (as amended); and

WHEREAS, the City has forwarded a copy of the proposed amendments to the Oregon Department of Land Conservation and Development (DLCD) in a timely manner; and


WHEREAS, the City Council of the City of Happy Valley, Oregon, has determined that it is reasonable, necessary and in the public interest to amend Title 16 of the Municipal Code as detailed within Exhibit "A"; and

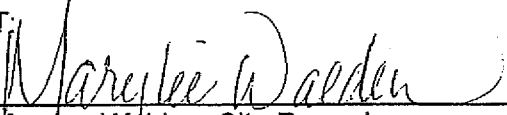
WHEREAS, the City Council hereby adopts the proposed amendments as detailed in Exhibit "A", as supported by the Findings of Fact in Exhibit "B", at the regular meeting of the City Council on August 15, 2006.

NOW, THEREFORE, it is hereby declared by the City Council of Happy Valley, Oregon, that the City's Development Code be amended as set forth as part of Exhibit "A" and is fully incorporated herein.

BE IT FURTHER declared that this Ordinance shall become effective thirty (30) days after approval by the City Council.

READ for the first time at the regular meeting of the City Council of the City of Happy Valley, Oregon, on August 15, 2006 and read for the second time on August 15, 2006, and adopted by unanimous vote of the members of the City Council of the City of Happy Valley, Oregon.

  
\_\_\_\_\_  
Eugene Grant, Mayor

ATTEST:  
  
\_\_\_\_\_  
Marylee Walden, City Recorder

## Adopted Amendments to the City of Happy Valley Comprehensive Plan

Language to be omitted is ~~strikethrough~~, proposed language additions are in **bold underline**.

(NOTE: The symbol [...] denotes that intervening code sections exist between those quoted, but are not specifically addressed as part of these findings).

"[...]"

#99. *Any land development within the City shall be subject to participation in the provisions of Level 2 facilities and services which are essential to the development of the City as a whole, and shall include:*

- schools*
- police protection*
- parks and recreation*
- public transit*
- vector control*
- city administrative services*

**However, per the requirements of ORS 195.110(11) - notwithstanding any other provision of state or local law, school capacity shall not be the sole basis for the approval or denial of any residential development application, unless the application involves changes to the local government comprehensive plan or land use regulations.**

[...]"

#102. *When, as the coordinator of land use activities and service provision to development areas, the City must make determinations regarding fulfillment of the Growth Management Policies and Procedures, the City shall ~~rely on a determination~~ **consider recommendations** provided by the service providers and other affected agencies, including but not limited to the following:*

- Clackamas County Service District No. 1 **(CCSD#1)***
- ~~Mt. Scott Water District~~ **Sunrise Water Authority***
- ~~Happy Valley Rural Fire District No. 65~~ **Clackamas County Fire District No. 1 (CCFD#1)***
- Clackamas County, Department of Transportation and ~~Land Use for roads~~ **Development***
- North Clackamas School District No. 12*
- North Clackamas Parks & Recreation District***
- Tri-Met*
- City of Portland*
- City of Gresham***
- City of Damascus***

**Adopted Amendments to Title 16 of the City of Happy Valley  
Municipal Code (Land Development Code)**

**16.04.080 Definitions.**

For the purposes of this title certain terms and words are defined in this section. Specific definitions which shall also apply to this title may be found in various appropriate sections throughout. When not inconsistent with the context, words used in the present tense shall include the future; the singular tense shall include the plural, and the plural the singular; the word "shall" is always mandatory and the word "may" denotes a use of discretion.

[...]

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

"Daycare facility" means a public, private or non-profit facility for the day or evening (but not overnight) care of children outside of their homes. A daycare facility must be licensed. Examples include daycare centers, nursery schools, preschools and before-and-after school care programs, **but does not include child care homes.**

[...]

"Dwelling" means a building which is occupied in whole or in part as a home or residence, either permanently or temporarily by one or more families, but excluding hotels, motels and motor hotels.

**"Dwellings, residential". Types of residential dwellings include, but are not limited to, the following types of structures:**

~~"Dwelling, single-family."~~ "Single-family dwelling" means a detached building designed or used exclusively for the occupancy of one family and having housekeeping facilities for only one family (See Family).

**"Detached single-family dwelling." "Single-family dwelling" means a single-family dwelling, located on a fee simple tax lot, that shares no common or abutting walls with any other dwelling (other than an Accessory Dwelling Unit).**

~~"Dwelling, single-family attached" (also known as a Townhouse).~~ "Single-family attached dwelling" means a single-family dwelling, located on its own a fee simple tax lot, that shares one or more common or abutting walls with one or more other single-family dwellings. A single-family attached dwelling does not share common floors or ceiling with other dwellings. ~~Single-family attached developments are subject to Section 16.16.140, Planned Unit Development.~~

"Dwelling, two-family" (also known as a dDuplex). "Two-family (duplex) dwelling" means a building designed or used exclusively for the occupancy of two families living independently of each other and having separate housekeeping **living** facilities for each family.

"Dwelling, ~~multiple~~ **multi**-family." "Multiple family dwelling" means a building designed and used for occupancy by three or more families, all living independently of each other, and

having separate housekeeping living facilities for each family, without regard to ownership status (rental and/or owner-occupied housing).

[...]

“Home occupation” means an occupation or business activity which results in a product or service and is conducted in a dwelling (single-family dwelling unit, accessory dwelling unit, multifamily unit, condominium, etc.) normally associated with primary uses allowed in the underlying zoning district. Home occupations are to be conducted by at least one family member occupying the dwelling, and shall be clearly subordinate to the residential use of the subject property. Home occupations do not include garage sales, yard sales, holiday bazaars, or home parties which are held for the purpose of the sale or distribution of goods or services unless such sales and/or parties are held more than six times in a calendar year or operate in excess of twenty-four (24) total days in a calendar year. Home occupations are subject to the requirements of Section 16.14.020 of this Title, and include “child care homes.”

[...]

“Residential dwellings.”

1. ~~“Multifamily dwelling” means a structure on a single lot or parcel containing three or more units that share common walls or floor/ceilings with the adjacent unit(s). Multifamily dwellings include condominiums and apartment units without regard to ownership status. Types of multifamily dwellings include, but are not limited to, the following types of structures:~~

~~a. Single-family attached dwelling (also known as a Townhouse). A single-family attached dwelling of one or more stories, in a building or set of buildings of two or more units. Each dwelling unit’s underlying lot may be platted to allow separate ownership or may be kept as one tax lot.~~

~~b. Garden apartments which are multiple story multifamily dwellings.~~

~~c. Assisted care facilities for the elderly, excluding nursing homes, convalescent care and institutional type living arrangements unless it is part of a congregate/assisted living complex and the congregate care portion does not make up more than twenty five (25) percent of the total gross area of the facility.~~

~~2. “Senior housing” means and includes independent care and assisted care facilities for the elderly, but excludes nursing homes, convalescent care and institutional type living arrangements unless it is part of a congregate/ assisted living complex, and the congregate care portion does not make up more than twenty five (25) percent of the total gross area of the facility. Senior housing is allowed in multifamily zoning districts, and can consist of a combination of apartments, rowhouses and other types of housing units. Units may be connected to each other by hallways or breezeways.~~

“Residential care facility” means a facility licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.460 (or succeeding state law) which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen (15) individuals who need not be related. Staff persons required to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

Residential facilities may include nursing homes, convalescent homes, extended care facilities and homes for the aged.

“Residential **care** home” means a home licensed by or under the authority of the Department of Human Resources under ORS 443.400 to 443.825 (or succeeding state law) which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons needed to meet Department of Human Resources licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

[...]

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

~~“Secondary dwelling unit” means an individual dwelling unit which contains separate plumbing and kitchen facilities and a separate entrance/access, but which is contained within a new or existing single family frame dwelling, thus creating a duplex unit.”~~

[...]

**16.12.030 Very low density residential.**

Density not to exceed one unit for each forty thousand (40,000) square feet — R-40.

[...]

C. Uses Permitted with Conditional Approval.

[...]

10. Daycare facilities (**daycare facilities do not include child care homes, which are a permitted use as a Type II Home Occupation per the requirements of Section 16.14.020).**

[...]

**16.12.040 Low density residential.**

Density not to exceed one unit for each twenty thousand (20,000) square feet — R-20.

C. Uses Permitted by Conditional Approval.

[...]

8. Daycare facilities (**daycare facilities do not include child care homes, which are a permitted use as a Type II Home Occupation per the requirements of Section 16.14.020).**

[...]

**16.12.041 Medium-low density residential.**

Density not to exceed one unit for each fifteen thousand (15,000) square feet — R-15.

C. Uses Permitted by Conditional Approval.

[...]

8. Daycare Facilities (**daycare facilities do not include child care homes, which are a permitted use as a Type II Home Occupation per the requirements of Section 16.14.020).**

**16.12.041 Medium density residential.**



Density not to exceed one unit for each ten thousand (10,000) square feet — R-10.

C. Uses Permitted by Conditional Approval.

[...]

**9. Daycare Facilities (daycare facilities do not include child care homes, which are a permitted use as a Type II Home Occupation per the requirements of Section 16.14.020).**

[...]

**16.12.051 Medium-high density residential.**

Density not to exceed one unit for each eight thousand five hundred (8,500) square feet — R-8.5.

C. Uses Permitted by Conditional Approval.

[...]

**8. Daycare Facilities (daycare facilities do not include child care homes, which are a permitted use as a Type II Home Occupation per the requirements of Section 16.14.020).**

[...]

**16.12.060 High density residential.**

Density not to exceed one unit for each seven thousand (7,000) square feet — R-7.

C. Uses Permitted by Conditional Approval.

[...]

**8. Daycare Facilities (daycare facilities do not include child care homes, which are a permitted use as a Type II Home Occupation per the requirements of Section 16.14.020).**

[...]

**16.12.061 Residential 5,000 square feet (R-5)**

A. Purpose. This development district will allow single family (attached and detached) as well as duplexes, triplexes and limited neighborhood commercial uses within the city. Sanitary sewer and water are the most essential of urban services, but all Level I services and facilities are necessary and required for development at full density.

In this district, there is an average lot size of five thousand (5,000) square feet.

[...]

C. Uses Permitted by Conditional Approval:

1. Residential facilities;
2. Private parks or recreation facilities;
3. Public parks and playgrounds which include fully or partially enclosed structures for the primary or secondary use;
4. Church, synagogue, temple or cathedral;
5. Public or private schools;
6. Home-business, as defined in Section 16.04.080 **Daycare Facilities (daycare facilities do not include child care homes, which are a permitted use as a Type II Home Occupation per the requirements of Section 16.14.020).**

[...]

**16.12.120 Village Commercial District (VC)**

This section provides for a mixture of retail/office, commercial and business park uses. These uses are located in areas where suitable services and facilities are currently provided or can be provided as development occurs. In addition, this district allows for pedestrian friendly development with good connections via the sidewalks, trails and street system from residential areas to parks, open spaces, commercial and office uses.

[...]

**B. Permitted uses.**

The following uses will be allowed as primary uses in the Village Commercial District:

1. Antique and Secondhand Store
2. Art supply stores
3. Bakery
4. Bank Teller, but not drive-in or drive-through service.
5. Barber shop, beauty salon
6. Bicycle sales, supplies, repair service
7. Book store
8. Camera Store
9. Cafes and delicatessens which serve at least breakfast and/or lunch; catering services. No drive-through window service shall be allowed.
10. Clothing store
11. Coffee shop
12. Confectionery stores
13. Drugstore
14. Dry cleaner, laundry, tailoring and alterations shop,
15. Electrical/electronic equipment sales, service, repair
16. Fabric and dry goods stores
17. Florist
18. Gallery (art and craft)
19. General Merchandise Store
20. Gift store
21. Grocery and produce stores
22. Hardware and garden supplies store
23. Health club, gym
24. Home furnishings; interior decorating sales, service
25. Jewelry store
26. Laundromat
27. Locksmith
28. Meat and Fish markets
29. Novelty store
30. Optometry and optical goods, sales, service
31. Office supplies

- 32. Personal services
- 33. Pet store
- 34. Photo finishing, photography studios
- 35. Plumbing shops, retail sales, repairs, service
- 36. Post office
- 37. Printing and copying services, telecommuting center
- 38. Professional office: doctors, dentists, chiropractors, service personnel, small clinics or community health care programs
- 39. Radio, TV, music stores, sales, service
- 40. Residential: Apartments **Dwelling units, without regard to ownership status (rental and/or owner-occupied housing)** are permitted on upper stories. Up to two stories of apartments may be conditionally permitted as infill on surface parking lots, oriented toward the east-west street facing the Village Green. Any dwelling unit located on the second floor must have its own outside door; exterior staircases are not permitted. Residential uses in the Village Commercial district shall have hipped, gambrel or gabled roofs

[...]

**16.13.050 Planned mixed use development standards.**

[...]

**Table 16.13.050(3)  
Parking Ratios**

<b>Use-Category</b>	<b>Minimum Parking Spaces Required</b>	<b>Maximum Parking Spaces Required</b>
<b>Commercial—Retail</b>		
Retail trade, including shopping centers, service businesses (per 1,000 gross square feet)	3.0	5.1 in Zone A
	3.0	6.2 in Zone B
Movie theaters (per number of seats)	0.3	0.4 in Zone A
	0.3	0.5 in Zone B
Sports club/recreation facilities (per 1,000 gross square feet)	4.0	5.4 in Zone A
	4.0	6.5 in Zone B
Restaurants	10.0	19.1 in Zone A
	10.0	23.0 in Zone B
<b>Commercial—Office</b>		

Medical offices (per 1,000 gross square feet)	3.9	4.9 in Zone A
	3.9	5.9 in Zone B
General offices (per 1,000 gross square feet)	2.7	3.4 in Zone A
	2.7	4.1 in Zone B
<b>Residential</b>		
Single family (unit)	1.0	None
Attached dwellings (unit)	1.0	None
Multifamily (unit)	1.0	None
Senior housing (apartments = unit) (convalescent care = bed, based on maximum capacity)	1.0/unit + 0.25/bed	2.0/unit + 0.50/bed
Mixed use (res retail)	(1.0/unit + required retail minimum)*90%	1.0/unit + required retail minimum
<b>Institutional</b>		
Churches, synagogues, temples or places of worship (spaces/seats)	0.5	0.6 in Zone A
	0.5	0.8 in Zone B
Public parks, usable open space	None	None
Private commercial schools (includes day care)	None	None
Library, community center	None	None
Utility facilities (telecommunication, pump stations, substations)	None	None

[...]

### Section 16.14.020 Home occupation permits

The purpose of this section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. They are permitted by right in all residential units (dwellings), subject to the following standards:

#### A. General Requirements.

1. A home occupation permit shall be made by the person desiring to conduct the use, and, the owner or authorized representative of the property on the form provided by the city, including submittal of the appropriate fee.
2. Besides meeting the requirements of this section, the business or commercial use of any home for a home occupation must be supported by an active city business license.
3. For the purposes of this section, "home" refers to the residential location, including a single-family dwelling unit, accessory dwelling unit, multi-family unit, condominium unit, etc.
4. Mailed notice of a home occupation permit decision shall occur to properties that immediately abut (border) the home occupation residence. In the case of multi-family units, no mailed notice of decision is required.

#### ~~B. Appearance of Residence.~~

1. The home occupation shall be restricted to lawfully built enclosed structures and be conducted in such a manner as not to give an outward appearance of a business.
2. The home occupation shall not result in any structural alterations or additions to a structure that will change its primary use or building code occupancy classification. In addition, there shall be no display or other evidence (including signs), that will indicate from a public right-of-way or abutting residences that the dwelling unit is used in whole or in part for any purpose other than as a dwelling.
3. The home occupation shall not violate any conditions of development approval (i.e., prior development permit approval).
4. There shall be no change in the most current One and Two Family Dwelling (CABO) Code occupancy classification of the dwelling unit or any portion of the dwelling unit, including the garage.
5. No more than an area equivalent to fifty percent (50%) of the total floor area of the home may be used in connection with a home occupation or for storage purposes in connection with a home occupation. Home occupation areas may be located within a portion of the dwelling building and/or an attached or detached garage. However, home occupations shall not be located in other accessory structures, except for an approved accessory dwelling unit.
6. No customers shall be on the premises between 10:00 p.m. and 7:00 a.m.

#### ~~C. Storage.~~

1. Outside storage, visible from the public right-of-way or adjacent properties, is prohibited.
2. On-site storage of hazardous materials (including toxic, explosive, noxious, combustible or flammable) beyond those normally incidental to residential use, is prohibited.
3. Storage of inventory or products and all other equipment, fixtures, and activities associated with the home occupation shall be allowed in any structure.

#### ~~D. Employees.~~

1. Other than family members residing within the dwelling located on the home occupation site, there shall be no more than one full-time equivalent employee at the home occupation site at any given time. As used in this chapter, the term "home occupation site" means the lot on which the home occupation is conducted.
2. Additional individuals may be employed by or associated with the home occupation, so long as they do not report to work or pickup/deliver at the home.
3. The home occupation site shall not be used as a headquarters for the assembly of employees for instruction or other purposes, including dispatch to other locations.

#### ~~E. Vehicles, Parking and Traffic.~~

1. One commercially licensed vehicle associated with the home occupation is allowed at the home occupation site. It shall be of a size that would not overhang into the public right-of-way when parked in the driveway or other location on the home occupation site.

2. No deliveries shall be made to the residence other than by traditional small-scale means normally found in a residential area, such as the United States Postal Service, UPS, Federal Express, messenger services, etc. There shall be no commercial vehicle deliveries during the hours of 10:00 p.m. to 7:00 a.m.

3. There shall be no more than one client's or customer's vehicle at any one time and no more than eight per day at the home occupation site.

#### F. Prohibited Home Occupation Uses.

1. Any activity that produces radio or TV interference, noise, glare, vibration, smoke or odor beyond allowable levels as determined by local, state or federal standards, or that can be detected beyond the property line, is prohibited.

2. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed subject to subsections A through F of this section.

3. Any uses described in this section or uses with similar objectionable impacts because of motor vehicle traffic, noise, glare, odor, dust, smoke or vibrations, such as:

a. Ambulance service;

b. Animal hospital, veterinary services, kennels or animal boarding;

c. Auto and other vehicle repair, including auto painting;

d. Repair, reconditioning or storage of motorized vehicles, boats, recreational vehicles, airplanes or large equipment on-site.

#### G. Administration and enforcement.

1. The city manager or designee may visit and inspect the site of home occupations in accordance with this chapter periodically to insure compliance with all applicable regulations, during normal business hours, and with reasonable notice. Code violations shall be processed in accordance with the Happy Valley Municipal Code.

2. The approval for a home occupation permit shall be valid as long as an active business license is maintained and renewed annually. The home occupation permit may be revoked by the city manager or his or her designee for a violation of any provision of this chapter, a violation of any term or condition of the permit, or failure to renew the city business license when due.

**A. Purpose. The purpose of this section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. In addition, the purpose of this section is to establish approval criteria and standards to ensure that home occupations are conducted as lawful uses which are subordinate to the residential use of the property and are conducted in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents.**

**B. Exemptions. Exemptions from the provisions of this chapter are:**

- 1. Short term personal sales (such as a garage sale or the sale of an individual personal item such as furniture or a bicycle) from a residence. The maximum duration of garage/yard sales is three consecutive days and/or 10 days total in a calendar year;**
- 2. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises.**
- 3. Hobbies which do not result in payment to those engaged in such activity;**
- 4. Proven nonconforming home occupations as per Chapter 16.24 (Nonconforming Uses, Structures and Lots).**

**C. Non-conforming uses. On-going home occupations may be granted nonconforming status provided that they were:**

- 1. Permitted under County authority prior to annexation to the City and have been in continuous operation since initial approval;**
- 2. Permitted under City authority prior to 1983 and have since been in continuous operation.**

**B. Governing regulations. Nonconforming home occupations will be regulated as a nonconforming situation, per the following:**

- 1. A nonconforming situation may continue until the use is expanded or altered so as to increase the level of non-compliance with this title;**
- 2. The burden of proving a home occupation's nonconforming status rests with the property owner or tenant.**
- 3. Violations. Home occupations without City or County approval which cannot prove nonconforming status shall be considered in violation of this chapter and shall cease until the appropriate approvals have been granted.**

**D. General approval criteria and standards. All home occupations except those that have proven nonconforming status shall observe the following criteria in addition to the standards established for Type I and Type II Uses described in Section 16.14.020.E of this chapter.**

- 1. Home occupations may be undertaken only by the principal occupant(s) of a residential property;**
- 2. No deliveries shall be made to the residence other than by traditional small-scale means normally found in a residential area, such as the United States Postal Service, UPS, Federal Express, messenger services, etc. There shall be no commercial vehicle deliveries during the hours of 10:00 p.m. to 7:00 a.m.;**
- 3. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the operation.**
- 4. The home occupation shall be operated entirely within the dwelling unit and a conforming accessory structure. The total area which may be used in the accessory building for either material product storage and/or the business activity shall not exceed 528 square feet. Otherwise, the home occupation and associated storage of materials and products shall not occupy more than 50 percent of the combined residence and accessory structure gross floor area, but in no case shall the portion of the home occupation occupying the accessory use exceed 528 feet. The indoor storage of materials or products**

shall not exceed the limitations imposed by the provisions of the building, fire, health and housing codes;

5. There shall be no change in the most current One and Two Family Dwelling (CABO) Code occupancy classification of the dwelling unit or any portion of the dwelling unit, including the garage;

6. More than one business activity constituting two or more home occupations shall be allowed on one property only if the combined floor space of the business activities does not exceed the limitation of space imposed in Section four above. Each home occupation shall apply for a separate home occupation permit, if required as per this chapter, and each shall also have separate City Business License;

7. There shall be no storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals that are engaged in home occupations shall make available to the Fire Marshal for review the Material Safety Data Sheets which pertain to all potentially toxic and/or flammable materials associated with the use.

8. No home occupation shall require any on or off-street parking other than that normally required for a residence;

9. The following uses are not allowed as either Type 1 or Type 2 home occupations:

a. Auto-body repair and painting;

b. On-going mechanical repair conducted outside of an entirely-enclosed building;

c. Junk and salvage operations;

d. Storage and/or sale of fireworks;

e. Ambulance service;

f. Animal hospital or veterinary services,

g. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed;

E. Type I and II home occupations defined. Home occupations shall be administered as either Type I or Type II uses. A separate home occupation permit and/or fee are required for each property on which a Type II home occupation is undertaken. For the purposes of this section, "home" refers to the residential location, including a single-family dwelling unit, accessory dwelling unit, multi-family unit, condominium unit, etc. In addition to the general criteria outlined in Section 16.14.020.D (above) home occupations shall observe the following additional standards:

1. Type I Home Occupations: The following characteristics of a Type I home occupation shall be prohibited:

a. Outside volunteers or employees to be engaged in the business activity other than the persons principally residing on the premises;

b. Exterior signs which identifies the property as a business location;

c. Clients or customers to visit the premises for any reason;

d. Exterior storage of materials.



**2. Type II Home Occupations: Property on which a Type II home occupation is located may show evidence that a business is being conducted from the premises. Therefore the following is allowed for Type II home occupations:**

**a. One non-illuminated sign, not exceeding 1.5 square feet, which shall be attached to the residence or accessory structure or placed in a window;**

**b. No more than three outside volunteers or employees who are not a principal resident of the premises;**

**c. No more than six daily customers or clients. Customers and clients may not visit the business between the hours of 10:00 PM and 8:00 AM and shall not generate excessive traffic or monopolize on-street parking (the generation of excessive traffic or monopolization of on-street parking shall be at the sole discretion of the Community Development Director or designee);**

**d. Storage of materials, goods, and equipment which is screened entirely from view by a solid fence. Storage shall not exceed five percent of the total lot area and shall not occur within the front yard or the required side yard setback.**

**e. Off-street Parking. Two on-site parking spaces shall be provided for the home occupation in addition to those spaces already required for the dwelling. No more than two customer vehicles may visit the home occupation at any one time and these must use the designated parking spaces outside. No commercially licensed vehicle in excess of ¾-ton manufacture's rating shall be utilized or parked at the dwelling unit by any resident or employee in connection with the home occupation, unless parked or stored in a fully enclosed building that is screened from adjacent residentially zoned lands by a fence or solid vegetative screen a minimum of six feet in height. In no case shall more than two commercial grade vehicles in excess of 1 ½-ton manufacturer's rating be parked or stored within the fully enclosed structures.**

**f. Kennels, animal boarding, and commercial animal breeding activities, though the minimum land area (either by lease or ownership) associated with the Type II Home Occupation that includes these uses shall equal one acre of land, and the total number of animals boarded at any one time shall not exceed 10 animals per acre.**

**F. Permit Procedures for Type I and Type II Home Occupations.**

**1. Type I home occupation permit. A Type I home occupation permit will be processed by means of an administrative decision, after a demonstration that the proposal complies with all development criteria within Section 16.14.020.**

**2. Type II home occupation permit. A Type II home occupation permit will be processed by means of a quasi-judicial procedure, and is subject to review by the Planning Commission, per the requirements of Chapter 16.48 (Administrative Procedures).**

**3. Conditions of approval. Staff may recommend, and the Planning Commission 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 which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;**

**c. Requiring additional building setbacks, and increased lot area, depth or width;**

**d. 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 associated with the home occupation;**

**g. Requiring landscaping, buffering and/or screening, of the home occupation from adjoining uses and establishing standards for the continued maintenance of these improvements;**

**h. Requiring storm drainage improvements, and surfacing of parking and loading areas;**

**i. Limiting the extent and type of interior or exterior building remodeling necessary to accommodate the home occupation;**

**j. Limiting or setting standards for the location and intensity of outdoor lighting;**

**k. Requiring and designating the size, height and location of fences and materials used for their construction;**

**l. Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;**

**m. Limiting the type and number of vehicles or equipment to be parked or stored on the site; and**

**n. Any other limitations which the staff and Planning Commission considers to be necessary or desirable to make the use comply with this Section.**

**G. Revocation and Expiration of Home Occupation Permits. Grounds for revocation. The community development 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 community development director shall approve the use as it exists, revoke the home occupation permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this Section after reviewing a complaint. Complaints may be originated by the City of Happy Valley or the public. Complaints from the public shall clearly state the objection to the home occupation, such as:**

**a. Generation of excessive traffic;**

**b. Exclusive use of on-street parking spaces;**

**c. Other offensive activities not compatible with a residential neighborhood.**

**3. Cessation of home occupation pending review. If it is determined by the community development 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 Planning Commission review and/or exhaustion of all appeals.**

**4. Waiting period for re-application. When a home occupation permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a home occupation on the subject parcel will be considered.**

**5. Invalidation of permit. A home occupation permit shall become invalid if the applicant moves his or her residence.**

**H. Business License Required. Besides meeting the requirements of this section, the business or commercial use of any home for a home occupation must be supported by an active City business license. No business license will be issued for a home occupation until:**

- 1. The person wishing to engage in a Type I home occupation pays the one-time review fee and agrees to comply with the provisions of this chapter; or**  
**2. The applicant for a Type II home occupation has been approved and the application certifies that the home occupation will be operated in strict compliance with the provisions of this Chapter and the conditions of approval.**

[...]

**16.13.021 Mixed use employment (MUE).**

The mixed use employment district will provide for development of office, employment and medium density residential uses as described in the Rock Creek Comprehensive Plan. The MUE neighborhood commercial sub district provides for neighborhood scale retail needs.

**A. Summary of Permitted Uses:**

1. Commercial-Office;
2. Institutional;
3. Civic;
4. Residential.

**Table 16.13.021  
Mixed Use Employment  
Permitted Uses**

Use Permitted Outright = P  
 Use Requires Conditional Use Permit = C  
 Use Prohibited = Uses not permitted are unlisted

Use	MUE
Commercial—Offices	
Professional and administrative offices	P
Medical office buildings	P
Retail sales and service (According to MUE NC rules)	P
Industrial	
Manufacturing and production	P
Industrial services	P
Flex-space	P
Wholesale sales	P
Commercial—General	
Wireless communication facilities	Per Chapter 16.59
Residential	
Medium <b>MUR-M1 – LOW</b> (Note: Mixed	P

use buildings with residential and commercial are allowed in addition to single use <b>multi-family</b> residential buildings)	
Senior housing	P
Home occupation (Section 16.04.080)	P
<del>Home business (Section 16.04.080)</del>	€
Institutional	
Churches, synagogues, temples, or places of worship	C
Public parks, usable open space	C
Public and private schools (includes day care)	C
Civic Uses	
Schools	P
Community service	P
Libraries, post offices, community centers, etc.	P
Construction of new streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan.	P

**B. Residential Standards.**

1. Residential development shall follow the standards in Section 16.13.030.
2. Residential density shall be the same as the MUR-M1 multi-family dwellings low density residential district (fifteen (15) to twenty-four (24) units per net acre) with a minimum density of twelve (12) units per net acre. (Ord. 296 Att. A (part), 2004; Ord. 259 (part), 2003)  
[...]

**Table 16.13.025(1)**  
**MUE Neighborhood Commercial**  
**Permitted Uses**

Use Permitted Outright = P  
 Use Requires Conditional Use Permit = C  
 Use Prohibited = Uses not permitted are unlisted

Use	NC
Commercial—Retail Uses	
Apparel and secondhand stores	P
Art and craft supply stores and studios	P
Bakeries	
Banks, savings and loan associations, loan companies and ATMs	P
Barber shops and beauty salons	P
Bed and breakfast inns	P
Bicycle sales, supplies, repair and service	P
Bookstores	C
Camera stores	P
Day care centers (adult and child care facilities)	P
Coffee shops, cafes, sandwich shops and delicatessens	P
Drugstores	
Dry cleaners and tailors	P
Florists	
Hardware and garden supplies	P
Home furnishing stores	P
Gift stores	
Grocery, food, specialty foods and produce stores	P
Hotels and residential hotels	P
Indoor health and recreation facilities, such as racquetball courts, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities	P
Exercise and tanning studios	P
Interior decorating shops, sales and service	P
Laundromats	
Music shops, sales and service	P
Optometry and optical goods, sales and service	P
Photo finishing, photography studios	
Rental stores, without outdoor storage	P
Restaurants, full service	

Restaurants, drive through	C
Service station	C
Shoe sales and repair stores	
Sporting goods, sales and service	P
Stationery stores	
Theaters or assembly halls	C
Yogurt and ice cream stores	P
Video rental stores	C
Veterinarian services and pet supplies	P
Retail and service commercial uses, similar to those above but not listed elsewhere in this section upon administrative determination through the design review process.	P
Commercial—General	
Wireless communications facilities	Per Chapter 16.59
Commercial—Offices	
Medical, professional and administrative offices	P
Institutional	
Churches, synagogues, temples, or places of worship	C
Public parks, usable open space	C
Public and private schools (includes day care)	<del>CP</del>
Civic Uses	
Construction of new streets and roads, including the extensions of existing streets and roads, that are included with the adopted Transportation System Plan.	P
Libraries, post offices, community centers, and similar uses.	P
Residential	
Medium <b>MUR-M1 – LOW</b> (Note: Mixed use buildings with residential and commercial are allowed in addition to single use <b>multi-family</b> residential buildings)	P
Senior housing	P
Home occupation (Section 16.04.080)	P

### C. Location.

1. The MUE neighborhood commercial sub district may be located anywhere within the area designated as MUE on the Rock Creek Plan map or other areas designated MUE in the City's Comprehensive Plan map.
2. MUE neighborhood commercial sites shall be designated on planned mixed use master plans created in accordance with Section 16.13.040 or design review plans submitted under Chapter 16.32, design review, Site Development Plan.
3. Only one MUE neighborhood commercial site shall be allowed within the MUE portion of a Master Plan developed in accordance with Section 16.13.040. If an MUE area is developed without a Master Plan because the MUE area is less than five acres, ~~than~~ **then** the maximum MUE neighborhood commercial area shall be that listed in Table 16.13.025(2). Neighborhood commercial development in the MUE district shall not be phased to avoid the maximum site size limits.

[...]

### 16.13.030 Mixed use residential (MUR).

Mixed use residential will promote compact form, and residential and commercial or residential and office mixed vertically, in addition to across the district. The proposed mixed use residential district is composed of four sub-areas: single-family detached, attached, multifamily and mixed use. The multifamily sub-area provides for a range of densities, each of which should be shown on the master plan map. The multifamily and mixed use sub-areas allow for retail uses that are meant to provide services to local residents, not attract outside traffic. The density requirements and minimum/maximum lot sizes are meant as a guide, and will vary based on the amount of unbuildable lands removed from gross acres. The density is calculated for each sub-area: single-family, attached, multifamily (low, medium and high), and mixed use buildings by calculating the average density for the residential district area identified in the master plan. Therefore, some lots may be smaller than the lot sizes given below, except for the single-family sub-area which has minimum lot size. Minimum densities are provided to comply with the Urban Growth Management Functional Plan, Title 1 requirements. Specific housing types and permitted uses for each sub-area are listed in Table 16.13.030.

#### A. MUR-S Single-family Dwellings.

1. Minimum density of six units per net acre.
2. Minimum lot size of four thousand (4,000) square feet.

#### B. MUR-A Attached Dwellings.

1. Maximum density of twelve (12) units per net acre.
2. Minimum density of ten (10) units per net acre.

#### C. MUR-M Multifamily Dwellings (excluding single-family attached dwellings).

1. Sub areas for multifamily units.

a. MUR-M1 (Low) units/net. acre.	15-24
b. MUR-M2 (Medium) units/net. acre.	25-34
c. MUR-M3 (High) units/net. acre.	35-50

**Table 16.13.030  
Mixed Use Residential Permitted Uses**

New streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan.

Use Permitted Outright = P

Use Requires Conditional Use Permit = C

Use Prohibited = X (if use is not permitted in any residential district it is not shown)

Use	MUR-S Single- Family Detached	MUR-A Attached	MUR-M Multifamily	MUR-X Mixed Buildings
<b>Commercial—Retail Uses</b>				
Art and craft supply stores, studios	X	X	X	P
Bakeries	X	X	X	P
Banks, savings and loan associations, loan companies, ATM (not drive in or drive through)	X	X	X	P
Barber shops, beauty salons	X	X	P	P
Bicycle sales, supplies, repair service	X	X	X	P
Book stores	X	X	X	C
Coffee shops, cafes, sandwich shops and delicatessens (no drive through service allowed)	X	X	P	P
Drug stores	X	X	X	P
Dry cleaners and tailors	X	X	X	P
Florists	X	P	P	P
Gift stores	X	X	X	P
Grocery, food, specialty foods, and produce stores	X	C	C	P
Hotels and residential hotels	X	X	C	P
Indoor health and	X	X	C	C



recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities.				
Interior decorating shops, sales and service	X	X	X	P
Laundromats	X	X	P	P
Music shops, sales and service	X	X	X	P
Optometry and optical goods, sales and service	X	X	X	P
Photo finishing, photography studios	X	X	X	P
Post offices	X	X	X	P
Rental stores, without outdoor storage	X	X	X	P
Restaurants, full service	X	X	X	C
Shoe sales and repair stores	X	X	X	P
Sporting goods, sales and service	X	X	X	P
Stationary stores	X	X	X	P
Taverns, bars and cocktail lounges (1,500 feet from school uses, public parks and churches)	X	X	X	C
Yogurt and ice cream stores	X	C	P	P
Video rental stores	X	X	X	C
Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process.	X	X	P (where scale and trip generation are compatible with residential development)	P (where scale and trip generation are compatible with residential development)

Commercial—Offices				
Professional and administrative offices	X	X	X	P
Medical office buildings	X	X	X	P
Residential				
Single-family dwellings	P	P	X	X
Attached dwellings, (townhouses, attached duplex, rowhouses)	C	P	p <sup>1</sup>	p <sup>2</sup>
Multifamily dwellings				
Low	X	X	P	P
Medium	X	X	P	P
High	X	X	P	P
Senior housing	X	X	P	P
Accessory dwelling units (Section 16.16.240)	P	P	X	X
Home Occupation (Section 16.04.080)	P	P	P	P
Institutional				
Churches, synagogues, temples or places of worship	C	C	C	C
Public park, usable open space	C	C	C	C
Private and public schools (includes day care)	C	C	C	C
Utility facilities (telecommunication, pump stations, substations)	X	X	C	C

<sup>1</sup> Per MUR-A Attached Dwellings Density Standards listed within Section 16.13.030.B

<sup>2</sup> Per MUR-A Attached Dwellings Density Standards listed within Section 16.13.030.B

[...]

**16.16.110 Minimum design standards.**

A. General Provisions.

1. The principles and requirements within this section shall be followed in the development of all partitions, subdivisions and planned unit developments and shall be considered minimum standards.
2. All cuts and fills shall comply with the standards and provisions in Section 16.20.140.
3. The removal of natural ground cover shall comply with the standards and provisions in Section 16.20.090.

[...]

E. Lot or Parcel Provisions. The following shall govern the layout and design of all lots or parcels within all **partitions**, subdivisions or planned unit developments:

1. The minimum size of any lot or parcel of property created within a **partition or** subdivision shall be of an area not less than the stated minimum size for each land use district within which the lot or parcel is located unless the site is developed as a planned unit development under the provisions of Section 16.16.140 of this chapter **or by public right-of-way dedication or conveyance for a public use for an existing public street or public property, given that said scenario would result in a non-conforming lot size not to exceed ten percent of the required minimum lot size.**

[...]

**16.20.090 Tree cutting and preservation.**

A. Purpose. The purpose of this section is to regulate the removal of trees in order to preserve the wooded character of the City of Happy Valley, and to protect trees as a natural resource of the city. It is the intent of this section to allow the prudent management of trees by **individual** property owners **and developers** where such management is in keeping with the purposes of this section.

B. Definitions. For the purposes of this section the following terms shall have the following meanings:

“Applicant” means any lessee, agent, employee or other person acting on behalf of a property owner with the owner’s consent. “Applicant” may also include the actual owner of the property for which a tree removal permit is being applied.

“Approval” means written approval by the city or an approved representative of the city.

“City manager” means the city manager or the city manager’s designee, except where the context expressly requires otherwise.

“Dangerous tree” means a tree which, due to its location or condition (**prior to tree removal associated with land development**), presents a clear public safety hazard or an imminent danger of property damage, where such hazard or danger cannot reasonably be alleviated by treatment, pruning or other means.

“Developed land” means a parcel or parcels of land developed to the full extent permitted by the current development regulations.

“Land Development Ordinance **Code**” or “**LDOC**” means **Title 16 of the City’s Municipal Code** Happy Valley’s Land Development Ordinance 97, as amended.

“Limbing” means the removal of a branch of a tree back to the main trunk of such tree.

“Owner” means and includes, for the purposes of this section, any person with a freehold interest in land, or a lessee, agent, employee or other person acting on behalf of the owner with the owner’s consent.

**“Optimal Tree Protection Zone” means an area around a tree that must be protected to ensure that the tree is not physically damaged, and that the roots are protected. The minimum distance from the center of a tree to the disturbance line shall be one-foot of radius per inch of diameter at breast height (dbh), as measured 4.5 feet above the uphill side of the tree. Within these parameters, no more than 33 percent of the area may be disturbed, though with healthy vigorous trees, up to 50 percent of the area may be disturbed if supported by a certified arborist.**

“Person” means any individual or legal entity.

“Removal” or “remove” means to cut down a tree, remove the crown or top of the tree, or to damage a tree so as to cause the tree to decline and/or die. “Removal” includes, but is not limited to, damage inflicted upon the root system by the application of toxic substances, the operation of equipment and vehicles, storage of materials, change of natural grade due to unapproved excavation or filling, or by the unapproved alteration of natural physical conditions. “Removal” does not include normal trimming or pruning of trees, but does include topping of trees.

“Street tree” means any tree located within a street right-of-way.

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

“Tree” means any woody plant, dead or alive, having a trunk six inches or more in diameter, maximum cross section, at 4.5 feet above ground level, measured from the uphill side. If a tree splits into multiple trunks below 4.5 feet, the trunk is measured at its most narrow point beneath the split.

“Tree farm” means any property being lawfully utilized for the commercial production of landscaping, nursery stock or Christmas trees, and including fruit and nut orchards; provided, however, that any land previously designated for exclusive farm use (EFU) by Clackamas County, within a state or county tax deferral program for timber production, and subsequently annexed into the city, shall be treated as a “tree farm” for purposes of this section for so long as the deferrals remain in effect.

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

“Volume removal” means the removal of twenty-five (25) percent or more of the trees from a property at any one time, when the number of trees upon such property totals sixteen (16) or more.

### C. Tree Removal Permits.

1. No person shall remove a tree, as defined in this section, without first obtaining a tree removal permit from the city. Permits shall be either a Type A permit or a Type B permit.
2. All tree removal permit fees shall be determined by resolution of the city council.
3. The city may impose additional conditions in writing upon approval of a Type A or B tree removal application such as the time and nature of the removal, mitigation measures, erosion control or other reasonable conditions.

4. The city may, at its discretion, allow for a waiver of tree removal fees for trees determined to be in the building envelope, dangerous, diseased or dying. This waiver shall not include the filing fee.

5. All removal work commenced after the issuance of a tree removal permit, including, but not limited to, the removal and disposal of trees and debris permitted to be removed, shall be completed within ninety (90) days after the issuance of a tree removal permit.

**D. Type A Permits.**

1. Type A permits are required if all of the following criteria are met:

- a. The applicant proposes to remove a maximum of three trees;
- b. The property is intended for, or occupied by, a single-family dwelling;
- c. The property is exclusively used for single-family residential uses, with or without accessory uses permitted under the LDO;
- d. The property does not contain trees protected as a condition of approval of development pursuant to the LDO; and
- e. The property for which the tree removal permit is sought is located in a residential zone.

2. An application for a Type A tree removal permit shall be made upon forms prescribed by the city. Upon submittal of the required application a representative of the city may make a site visit prior to issuance of the permit to verify the information contained in the application. The application for a permit shall contain at a minimum:

- a. The number, size, species and location of trees to be cut;
- b. The time and method of cutting or removal;
- c. A site plan or sketch depicting where each individual tree sought to be removed and each replacement tree, if any, is located;
- d. A statement of the reason for cutting or removal;
- e. Information concerning any proposed mitigation or landscaping measures to be taken to replace the tree(s) that is (are) to be removed;
- f. Any erosion control measures that are to be implemented;
- g. Any other relevant information that may be required by the city.

3. The following procedure shall be followed for Type A permits:

- a. By submission of an application, the applicant shall be deemed to have authorized city representatives access to the property as may be needed to verify the information provided, to observe site conditions, and if a permit is granted, to verify that terms and conditions of the permit have been followed;
- b. Upon application for a tree removal permit, the applicant shall clearly mark all trees requested for removal. Trees may be marked by colored tape, paper or any other clearly identifiable marking. A representative of the city may then make a site visit to examine the trees requested for removal;
- c. Within seven working days, the city shall notify an applicant if the application is deemed complete or not complete. Within ten (10) working days of the submission of a complete or completed Type A application, the city shall grant or deny the application.

4. Type A permits shall be evaluated based upon the following criteria:

- a. It is the intent of this section to allow the prudent management of trees where such management is in keeping with the purposes of this section. Type A permits shall be granted upon a showing that tree removal is consistent with prudent management of trees, does not

constitute a hazard to property or other necessary uses and does not negatively affect scenic, ecological, wildlife or similar values.

5. Any person granted a Type A permit ~~is encouraged to~~ **shall** replace each removed tree with at least one replacement tree on the same property, or an approved alternate public property in the city, **or shall make financial contribution to the City's "Tree Bank" equal to \$250.00 per tree.** All replacement trees ~~should~~ **shall** measure, by caliper method, ~~two inches~~ **1 ¾" (bag and burlap)** or more in diameter **at breast height, (dbh)** and should be planted not more than six months after removal.

6. No property for which a Type A permit has been granted may be the subject of an application for a subsequent Type A permit for a period of twelve (12) months; provided, however, that this limitation may be waived by the city upon a showing of extreme hardship or exigent circumstances. Tree removal permits shall be valid for a period of ninety (90) days. If tree removal work has not commenced within ninety (90) days, a new permit must be applied for.

7. An exception to subsection (D)(1)(a) of this section may be made by a representative of the city for trees that are located within the building envelope of a proposed structure.

#### E. Type B Permits.

1. Type B permits are required for all circumstances where the criteria for a Type A permit are not met.

2. Type B permit applications shall contain all information required for a Type A application as provided in Section 16.20.090(D) above. In addition, a Type B application shall include:

a. A tree survey prepared by a certified arborist, or other qualified landscape specialist as approved by the city, which describes size, species, health and condition of trees, and a map at a minimum scale of one inch equals one hundred (100) feet, that locates trees on the property.

Drainage ways, wetlands and surface water features shall also be identified on the map, **unless waived by the community development director;**

b. A tree removal plan. The plan shall identify each tree to be removed, describe protective fencing or markings around other trees or spaces to protect surrounding vegetation, and shall map proposed mitigation and erosion control measures. In addition, the plan shall designate grade changes, if any, proposed for the property;

c. All trees removed pursuant to a Type B permit may be replaced on a basis of up to three trees replanted for each tree removed, quantity to be determined by the community development director **(or designee).** For Type B permits, the city may require that replacement trees have shade or erosion control potential or other characteristics comparable to or greater than the removed trees. Replacement trees shall be appropriately chosen for the site from an approved tree species list supplied by the city, or as approved by a representative of the city, and shall be nursery Grade No. 1 or better. All replacement trees shall be at least ~~two inches~~ **1 ¾" (bag and burlap)** in diameter **at breast height, (dbh)** as measured by caliper method. The city may review and modify tree replacement plans in order to provide optimum enhancement, preservation and protection of wooded areas. ~~Street trees may be included in replacement calculations.~~ Where it is not feasible or desirable to relocate or replace trees on site, relocation or replacement may be made at ~~another approved~~ **an approved alternate public property in the city, or the property owner, builder or developer shall make financial contribution to the City's "Tree Bank" equal to \$250.00 per tree** location in the city.

3. The following procedure shall be followed for Type B permits:

a. By submission of an application, the applicant shall be deemed to have authorized city representatives access to the property as may be needed to verify the information provided, to observe site conditions, and if a permit is granted, to verify that terms and conditions of the permit have been followed. All trees are to be clearly marked by the applicant for inspection by a city representative, prior to removal;

b. Within seven working days, the city shall notify an applicant if the application is deemed complete or not complete. Within twenty-one (21) working days of the submission of a complete or completed Type B application, the city shall approve or deny the application;

c. No property for which a Type B permit has been granted may be the subject of an application for a subsequent Type B permit for a period of twelve (12) months; provided, however, that this limitation may be waived by the city upon a showing of extreme hardship or exigent circumstances.

4. Type B permits shall be evaluated based upon the following criteria:

a. It is the intent of this section to allow the prudent management of trees where such management is in keeping with the purposes of this section. Type B permits shall be granted upon a showing that tree removal is either:

i. Necessary for the construction of a building, addition, structure or other approved site improvement, and there is no feasible or reasonable alternative option for such improvement which would not require removal of trees; or

ii. Necessary to remove a tree or trees that is/are diseased, damaged or in danger of falling, or which present(s) a hazard to people or adjacent property; or

iii. Necessary to provide safe and adequate access to utility service, utility drainage or right-of-way; or

iv. Otherwise necessary or desirable for responsible property management, taking into consideration scenic, aesthetic, ecological, wildlife and similar values.

F. Tree Removal in Conjunction with Subdivision Construction, Planned Unit Development (PUD) Construction, or Land Partition, Construction, Development or Non-Residential Construction.

1. A Type B permit must be obtained prior to tree removal of any kind in connection with a subdivision, planned unit development, or land partition, or non-residential construction project.

2. At no time shall trees be removed from open spaces in a development, except under circumstances of danger, or threat to life and property as determined by a representative of the city. Individual trees that are to be removed during construction of a development shall be clearly identified on the tree removal plan, and must receive approval from the city. The plan shall illustrate typical building envelopes as allowed by the required yard setbacks of the underlying development district or actual building envelopes at the discretion of the community development director, particularly for multi-family, institutional, commercial or industrial developments; easements; or, any other structural development constraints, and shall be based on the final grading plan. All trees proposed for removal must exist within grading areas for public rights-of-way and public infrastructure and utility areas including stormwater detention facilities per Section 15.12.050 of this Code; and, within the potential or actual building envelope.

a. Optimal Tree Protection Zone. A tree that is adjacent to a public right-of-way; public infrastructure and utility area; or, potential or actual building footprint shall be retained

only if protected within the Optimal Tree Protection Zone as defined above. Within the portion of the Optimal Tree Protection Zone that is being protected, a substantial fence or barrier shall exist. Within the fenced area, no soil disturbance, including stripping, is permitted. The natural grade is to be maintained, and no storage or dumping of materials, parking, etc. will be allowed within this protection area. The protection area fence or barrier shall remain in place through the construction of the structure. If excavation is proposed within the Optimal Tree Protection Zone (outside of the fenced off of protection area), tree roots shall be pruned along excavation lines in the following manner:

i. Excavation in the top 24 inches of the soil in the critical root zone area should begin at the excavation line that closest to the tree;

ii. Excavation is to occur with a hand shovel or a backhoe accompanied by a person with a shovel, pruning shears and a pruning saw;

iii. When shoveling, all roots one-inch diameter or larger shall be pruned at the excavation line. When a backhoe is utilized, the operator starts the cut at the excavation line and if encountering roots or resistance, has the person with the shovel/shears/saw prune the roots larger than one-inch diameter;

iv. Backhoes are to remain off of the roots to be saved at all times; and,

v. All excavation work within the Optimal Tree Protection Zone (outside of the fenced protection area) shall be accomplished under the supervision of a certified arborist.

b. The Planning Commission shall determine the tree mitigation ratio for all tree removal as detailed within Section 16.20.090.F (except for partitions), with a maximum ratio of three trees to one removed. The community development director or designee shall determine the tree mitigation ratio for all tree removal in conjunction with a partition application, as detailed within Section 16.20.090.F, with a maximum ratio of three trees to one removed. All clearing limits and trees requested for removal must be clearly marked on site prior to any construction or tree removal of any kind, and shall be visually confirmed by a representative of the city. Failure to make such markings, or proceeding with clearing outside areas identified by such markings without approval by the city will constitute a violation of this section.

3. Individual lots that are created by construction of a subdivision, ~~planned unit development~~ PUD, ~~or~~ land partition, or non-residential construction shall be subject to a separate Type A or Type B permit for the removal of trees from such individual lot beyond those removed pursuant to the subdivision, PUD, ~~or~~ land partition, or non-residential tree removal permit as described in subsection (2) above. These "secondary" Type A or B permits shall be separate from the original preliminary tree removal plan included with the development application and final tree removal plan submitted in conjunction with construction plans. The individual lot owner, occupant or agent will be responsible for obtaining a permit for the removal of any trees from a lot created by a final plat. Removal of trees outside of the areas approved as part of the original subdivision, planned unit development, ~~or~~ partition, or non-residential tree removal plan shall be permitted only upon demonstration by a certified arborist that retention of trees within these areas represents a significant hazard to public health, safety and welfare, including potential damage to structures, or maintains a "view corridor". Review and approval of said arborist report shall be the responsibility of the community development director and city engineer (or designees).



**a. The community development director or designee shall determine the tree mitigation ratio for all tree removal as detailed within Section 16.20.090.F.3, with a maximum ratio of three trees to one removed.**

4. Removal of trees will not be allowed within thirty (30) feet of the high water mark on either side of an identified drainage way. An identified drainage way shall be one that is identified on a United States Department of the Interior Geological Survey 7.5 Minute Quadrangle Map ("U.S. Geological Survey Map"). No tree may be removed from an identified drainage way unless such tree is determined by a city representative to be a dangerous tree. For any drainage way that is not identified upon the United States Geological Survey Map, the permittee shall have the burden of demonstrating that the tree removal sought will not cause or contribute to erosion. The city may require that added erosion control measures be implemented to prevent erosion. The city may require additional documentation substantiating a claim of dangerous circumstances alleged to necessitate the removal of trees from within an identified drainage way. This request for information may include, but is not limited to, a certified arborist report confirming the danger posed by the tree(s) in question.

G. Emergency Permits. If any tree presents an immediate danger of collapse, posing a clear and present hazard to persons and/or property, such tree may be removed without formal application for a Type A or B permit and the payment of a tree removal permit fee may be waived by a representative of the city. For the purposes of this section, "immediate danger of collapse" means that the tree is already leaning, with the surrounding soil heaving, and there is a significant likelihood that the tree will topple or otherwise fall and cause damage before a tree removal permit can be obtained through the nonemergency process. The tree owner should photograph the tree showing emergency conditions and then may proceed with the removal of the tree to the extent necessary to avoid the immediate hazard. Within seven days after such removal, the tree owner shall apply for a retroactive emergency tree removal permit. If the evidence and information presented by the tree owner do not meet the criteria for an emergency tree removal permit set forth in this section, the owner shall be subject to penalties as set forth in subsection (I) of this section. Tree removal permit application fees may also be waived by a representative of the city after the emergency condition has been adequately verified.

H. Topping, Thinning, Creation and Preservation of View Corridors and Pruning of Trees.

1. Topping of trees without a permit is prohibited in the city. Trees severely damaged by storms or other uncontrollable causes, trees under utility wires or other obstructions making normal pruning practices impractical, and trees that have been continually topped and trimmed over time to be maintained as a visual screen or to perform a similar function may be exempted from this restriction. Such an exemption will be granted by a designated representative of the city, only after formal application for the proper tree removal permit (Type A or B) has been made.

2. Trees shall not be limbed in any manner that removes more than thirty (30) percent of the existing limbs. This requirement is intended to allow for normal tree pruning, but eliminate the consecutive limbing of trees from top to bottom.

3. Tree farms and fruit or nut orchards **that can demonstrate current commercial growing and harvesting operations** shall be excluded from the provisions of **this title Section 6.09**, except where the removal of trees would create **an a significant increase in erosion as determined by the city engineer**, in which case a Type A or Type B permit shall be required.

4. Trees may be removed for the creation or preservation of view corridors in the city.

Applications to remove trees for the creation or preservation of view corridors shall be made

upon forms prescribed by the city. Application type shall be dependent upon whether the applicant meets Type A or Type B permit criteria, as stated in subsections (D) and (E) of this section.

#### I. Violation and Penalties.

1. If a tree is removed without a tree removal permit, a violation may be determined by measuring the stump. A stump that is ~~five~~ six inches or more in diameter at 4.5 feet above ground level, or as close to 4.5 feet above ground level as can be determined from remaining evidence, shall constitute prima facie evidence of a violation of this chapter.
2. Failure to follow any requirements or conditions of an approved tree cutting permit shall constitute a violation of this section.
3. Removal of the stump of a tree cut without a tree removal permit prior to the determination provided for in subsection(I)(1) of this section is a separate, additional violation of this section.
4. Each day's violation of any provision of this section constitutes a separate offense. Each individual tree removed in violation of the requirements of this section shall be a separate offense hereunder. Failure to comply with a condition of approval shall be a separate infraction each day the failure to comply continues. Each offense or infraction is subject to a civil penalty as prescribed in Section 16.48.070 of this title.
5. A person who removes a tree subject to this section without first obtaining a valid tree removal permit may obtain a retroactive permit by demonstrating that the removal complied with the applicable criteria for obtaining a tree removal permit. No person may obtain more than one retroactive permit. In addition, the applicant may be subject to additional mitigation requirements as determined by the city.
6. Upon request of the city manager or at the direction of the city council, the city attorney may institute appropriate legal action to enjoin the removal of trees in violation of this section, or to otherwise enforce the provisions of this section.
7. The city shall have authority to issue a stop-work order, withhold approval of a final plat and/or withhold issuance of a certificate of occupancy, permit or inspection until the provisions of this section have been fully complied with.
8. A builder, developer or tree service holding a city business license who is convicted of violating any provision of this section shall constitute grounds for revocation of the license, at the discretion of the city council.
9. Any arborist, landscaper, contractor or tree service that has performed any tree removal in violation of this section or submitted a falsified report in connection with any tree removal or application for any tree removal covered by this section, shall not be considered a responsible bidder for any city contracts for a period of five years from the date of violation and/or penalty, whichever is later. The city council may, at its discretion, waive this provision upon a showing of good cause.
10. Removal of a tree in violation of this section is declared to be a public nuisance, and may be abated by appropriate proceedings pursuant to city Charter Section 21.
11. The owner of the property upon which tree removal takes place is subject to enforcement and penalties pursuant to this section regardless of whether such owner personally conducts activities in violation of this section.

**16.20.100 Landscaping, street trees and buffering.**

A. Purpose. The purpose of this section is to establish standards for landscaping, buffering and screening of land uses within Happy Valley in order to enhance the aesthetic environmental quality of the city:

[...]

4. Final public infrastructure inspection and authorization to submit building permits shall not occur unless the landscaping requirements have been met or, if not installed due to weather or other constraints not within the control of the developer, landscaping within common elements, open space tracts, collector and arterial streets (~~street trees and~~ **center medians**, planter strips, **etc.**), ~~etc.~~, shall be guaranteed by the submittal of a liquid financial guarantee (traditional guarantee bonds are not accepted) acceptable to the community development director to be retained until final installation and inspection. Said guarantee shall be in an amount equal to one hundred twenty-five percent (125%) of the landscaping installation estimate provided by a professional landscape contractor. The building official or designee shall be responsible for the inspection of ~~street trees and~~ planter strips for individual building lots, all other landscaping inspection responsibilities shall be the responsibility of the community development director or designee.

5. Existing plant materials on a site shall be protected as much as possible:

a. The developer shall provide methods for the protection of existing plant material to remain during the construction process;

b. The plants to be saved shall be noted on the landscape plans (e.g., areas not to be disturbed can be fenced, as in snow fencing which can be placed around individual trees).

6. Appropriate methods for the care and maintenance of street trees and landscaping materials shall be provided by the owner of the property abutting the rights-of-way unless otherwise required for emergency conditions and the safety of the general public.

D. Topsoil and Cover Planting.

1. During construction, sufficient topsoil and overburden shall be stored on the property in a stabilized condition at an isolated location to restore graded or backfilled areas. Such areas shall be covered with not less than eight inches of topsoil of at least equal quality to that removed, provided that if the average depth of the topsoil prior to excavation was less than eight inches, then the depth required need not exceed such lesser average.

2. Upon replacement of topsoil, the developer shall provide ground cover selected by the developer adequate to control erosion, prevent undue runoff and restore the surface in a manner suitable for its future development. Such ground cover will be identified by the developer on the site plan at the time of site plan review or preliminary approval of a partition, planned unit development, ~~or subdivision,~~ **or non-residential development proposal.**

E. Screen Landscape. Existing trees and other natural vegetation adjacent to a public park, or separating residential from nonresidential districts shall be preserved for a width of ten (10) feet. If such trees and other vegetation are insufficient to provide a screen, screening shall be provided at the boundary separating residential from nonresidential districts. This screen fencing shall be in the form of an ornamental fence or wall, sight obscuring planting five feet minimum in height or a landscaped raised berm to supplement any screening due to a natural slope and vegetation.

F. Street Trees and Planter Strips. All partitions, subdivisions, planned unit developments (PUDs) and any individual uses within any district, whether permitted by right or conditional approval, shall be required to provide street trees and, where applicable, planter strips on all

public or private roadways or access drives within the project area, in accordance with the following standards.

1. All street trees and planter strips shall be installed or financially secured by the developer per the definition of a "planter strip" found within Section 16.04.080 (Definitions) and shall be planted by the developer within two years of final plat recording or approval of construction plans for individual uses within any district. Private streets or development areas that do not utilize curbside planter strips shall install street trees beyond the public sidewalk, within a public utility and street tree easement.

**a. Street Tree Installation Methodology. The developer and/or builder shall submit a street tree plan as part of the construction plan set, detailing to the greatest extent practicable the placement of street trees in conformance with all spacing requirements in regard to street intersections, street lights, driveways, fire hydrants, etc. Based on this street tree plan, the developer shall submit a street tree installation fee based on an amount equal to 125 percent of the cost of the street tree plan, assuming a value of \$250 per tree. The City of Happy Valley street tree contractor shall install all street trees when the development reaches substantial buildout based on the discretion of the community development director or designee, but generally incorporating an 80 percent benchmark. Alternatively, substantially built-out streets, blocks or neighborhoods may also be authorized for street tree planting per the discretion of the community development director or designee. Any remaining street tree fees shall be refunded to the developer, any additional street tree fees shall be the responsibility of the developer. If in the interest of an expedited timeline for installation by the developer and/or builder (above and beyond that which might be carried out by the City's contractor), said methodology may also be carried out by the developer and/or builder, with submittal of adequate information and liquid financial guarantee (traditional guarantee bonds are not accepted) for the review and approval of the community development director or designee.** The ultimate responsibility for installing street trees in accordance with the requirements contained in this section shall be that of the developer. Street tree and planter strip installation and maintenance bonds shall be provided by the developer in the amount necessary to cover all material, planting, maintenance and administration costs associated with the installation and maintenance of street trees and planter strips. The trees and planter strips shall be planted and maintained in a manner consistent with the city's land development ordinance.

2. Planting/Removal. Any person desiring for any purpose to plant, remove, destroy, top or treat any tree in or upon any street right-of-way, shall first submit a tree cutting/planting application to the city describing the purpose and scope of work. All work done under such permit must be performed in strict accordance with the terms and provisions of this chapter. The city manager shall base approval of such permit on the health, safety and welfare of both the affected tree(s) and community residents. If any permit required by this section is denied, the applicant may appeal in writing to the city council within ten (10) days of denial. The council shall proceed and determine the appeal, calling upon the city manager to defend his or her decision.

3. Modified Existing Streets. All proposed changes to existing public street right-of-way widths or any proposed existing street improvement shall, where feasible, include allowances for parking and median strips in accordance with the city's public facilities plan and its new street system - final development standards.

4. Clearance Design:

a. Curb and sidewalk. Parking strip street trees shall be planted midway between curb and sidewalk in parking strips.

b. Center medians. Center median street trees shall be laterally centered in the medians and an offset placement pattern relative to parking strip street trees is required.

c. Utilities. All digging, including tree planting, must be preceded by underground location of utilities, water lines, sewer lines and transmission lines conducted by the planter.

d. Corners, driveways, fire hydrants and street lights. No street trees shall be planted closer than thirty-five (35) feet from any street corner, measured back from the point of intersecting curbs or curb lines. No street tree shall be planted closer than five feet to any drive-way, (10) feet to any fire hydrant, or fifteen (15) feet to any street light measured from its base. Vision clearance shall be provided as described and shown in the LDO diagram entitled Visual Clearance Zones, figure VCLZ-1.

e. Street tree spacing. Street trees in parking strips shall be placed at a maximum of thirty (30) feet on-center and located in accordance with the requirements contained in this chapter. Street trees in center medians shall be placed at a maximum of fifteen (15) feet on center. Trees planted in the center medians shall be staggered with the trees planted in the parking strips. Special plantings shall be allowed with prior approval by the city manager.

f. Visual clearance. In order to keep visual zones clear and to protect traffic, pedestrians and bicyclists from running into low limbs, trees within or overhanging the public right-of-way and/or visual clearance zone must be trimmed to at least seven feet above the sidewalk area, eleven (11) feet above streets or alleys, and fourteen (14) feet above neighborhood collector level two and higher level roads. ~~See Happy Valley public facilities plan new street standards, figures SSTD-1 through SSTD-6.~~

g. Median trees. Center median street trees shall be planted and maintained in a manner that eliminates conflict between vehicle traffic and trees. Pruning of median street trees shall reflect a limb standard sufficient to ensure a fourteen (14) foot clearance above streets. ~~See Happy Valley public facilities plan new street standards, figures SSTD-1 through SSTD-6.~~

5. Consistency. In order to foster distinct and harmonious neighborhoods and encourage smooth transition between different sections of the city, consistency in street tree species shall be encouraged. However, this does not equate to the implementation of a street tree plan that is homogenous in species type for local residential streets. Staff shall review and approve street tree choice based on, but not limited to, the following criteria:

a. Type and spacing of street trees in adjacent developments/neighborhoods;

b. Maintenance of the same species type for the entire length of all collector level streets, including center median ground cover and trees. All new street trees placed on collector level streets must be the identical specie of those street trees already existing on that same street;

c. Assist in the establishment of distinct neighborhoods with the use of street tree type.

6. Installation standards:

a. Street tree list. The species of street trees to be planted shall be chosen from the approved list of street trees per this Section. Planter strip ground cover shall be chosen from the approved list of ground cover per Section 16.16.410 (Native plant list). Copies of the street tree list and ground cover planting/ground cover methods list can be obtained from the city.

b. Method of planting. Planting methods for all public trees shall adhere to the National Arborist Association Revised Standards (NAA) latest edition unless determined otherwise by the city.

c. Installation Standards:

Parking Strip Street Trees. Minimum: one and three-quarters to two inches in diameter at a point four feet above existing grade at time of planting;

Center Median Street Trees. Minimum: two to two and one-half inches in diameter at a point four feet above existing grade at time of planting.

d. Center median strips. Center median strips shall be landscaped with vegetative ground cover and/or covered with nonvegetative materials (i.e., interlocking paving stones). Automatic irrigation systems for all center median strips with street trees and/or vegetative ground cover shall be installed by the developer at the time the medians are constructed. Water lines shall be stubbed to center medians prior to the installation of the first street lift. Where possible, the water lines to the center medians shall be laid in series, continuing under the street where median breaks occur. Center median landscape and irrigation plans must be prepared by a landscape architect registered in the state of Oregon and shall be incorporated into the final landscape plan submitted to the city for approval.

e. Method of support. Street trees shall be guyed or supported in an upright position according to accepted arboricultural standards (NAA) and fastened in a manner such that injury to the tree is avoided and public safety is ensured.

f. Permission to plant. No person shall plant or set out any tree in a public place without first obtaining written permission from the city manager. The city manager shall consider the following criteria in determining whether permission should be granted: number of trees to be planted or set out; location, grade, and variety of each tree; method of planting; and any additional information the city manager may reasonably need to make a fair judgment as to permission to plant.

g. Replacement. The city may require the replacement of a new tree by the abutting land owner, at the land owner's expense, after permission has been granted to remove an existing street tree.

h. Protection. No person may attach any ropes, wires, chains, or other devices to any street tree, or to the guard or stake intended for the protection of such trees, other than a device that will support and/or protect such trees. During the erection, repair, alteration or removal of any structure all street trees shall be adequately guarded and protected to prevent injury to such trees.

7. Removal. No person shall remove trees from public places without first obtaining written permission from the city manager or designated staff. Refer to the city's tree cutting ordinance for guidelines regulating the removal of trees from private property.

8. Maintenance standards:

a. All street trees within planting strips and medians must be pruned and maintained to National Arborist Association (NAA) standards for shade trees. A copy of the NAA standards is available at the city offices.

b. Care and maintenance of street trees is the continuing duty and routine obligation of the property owner(s) abutting dedicated rights-of-way and utility easements that contain street trees. It is the duty of the owner(s) to keep the sidewalks which abut their property clean from branches, leaves, flowers, fruit or other organic material fallen on such sidewalks.

c. No person shall prevent, delay or interfere with the city or any agent acting on the city's behalf, while such agents are engaged in the planting, cultivating, mulching, pruning, spraying or removing of any street trees, park trees or private trees as authorized by this chapter.

d. Trees on private grounds having limbs projecting into the street right-of-way shall be pruned by the owners of the property to satisfy the clearance requirements set forth in this chapter.

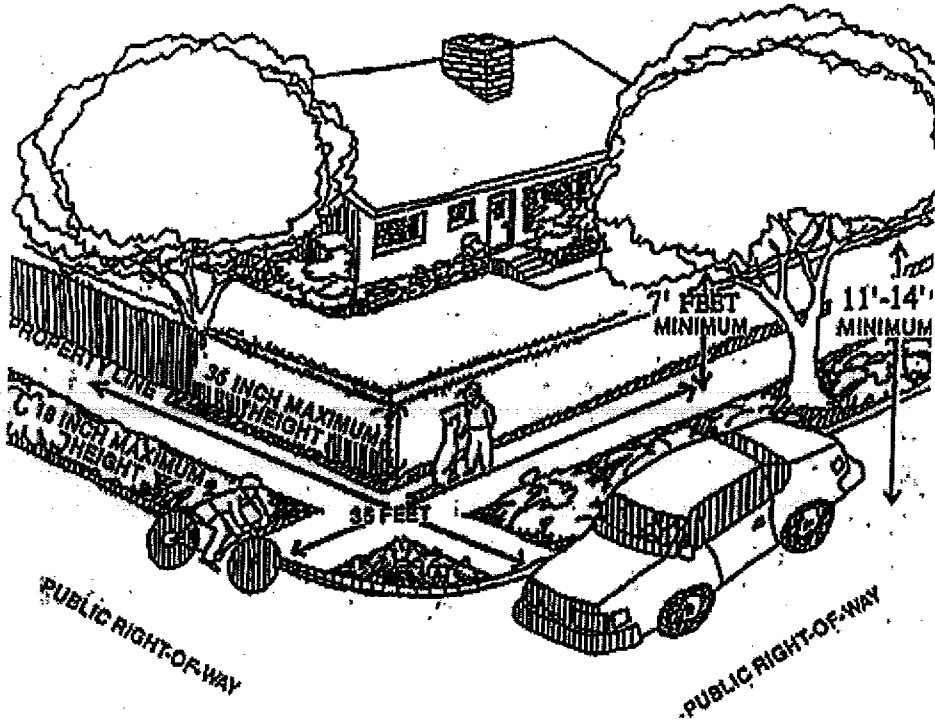
Whenever the owner(s) of private grounds neglect to adequately prune such trees, they may be declared a nuisance. Upon declaring a tree a public nuisance, the city manager may order the pruning and/or treatment of such tree(s). All costs associated with the maintenance of nuisance trees as established in this chapter shall be borne by the owner of that property upon which such trees are located.

e. Whenever the owner(s) of private grounds neglect any street tree in the public right-of-way that fronts their property as provided in this chapter, such tree(s) may be declared a nuisance. Upon declaring a street tree a public nuisance, the city manager may order the treatment of such tree(s). All costs associated with the maintenance of nuisance street trees shall be borne by the owner of that property which such trees front.

f. A private utility maintaining its utility system may prune to NAA standards any tree located in the public right-of-way which interferes with any street light, pole, wire, cable, appliance or apparatus used in connection with, or as a part of, the utility system.

g. Topping of street trees and park trees is prohibited unless so ordered by the city manager. Topping is defined as the severe cutting back of limbs larger than three inches in diameter to stubs within the tree's crown to such a degree that the normal canopy is removed and the tree is disfigured. Trees severely damaged by storms or where permanent obstructions make standard pruning practices impractical, may be exempted from this ordinance at the discretion of the city manager. The person(s) responsible for violations of this provision shall be subject to fines and penalties as established in Section 16.48.010 of this title.

h. In new partitions, subdivisions and planned unit developments, and any individual uses within any district, the developer shall be responsible for the care, maintenance and irrigation costs of all trees and landscaping within the public right-of-ways for a two year period after the release of the installation bond. A final inspection to determine street tree health and long term survivability shall be conducted at the end of the two year maintenance period. The final street tree inspection shall be conducted by an arborist registered in the state of Oregon with all associated costs borne by the developer. The arborist's report shall be submitted to the city for approval prior to the city's final acceptance of public improvements.



Visual Clear Zones at Intersections

Concerned about the safety of pedestrians, drivers and bicyclists, the City of Happy Valley has established visual and clear zones at all intersections to help people approaching an intersection see each other clearly. The zone includes the area behind the property line (on private property) and the area on the street side of the property line (within the public right-of-way). For more information call 760-3325.

\* Height of street branches extending into street right-of-way varies with the official designation of the street. See public facilities plan new street standards, figures SSTD-1 through SSTD-6.

[...]

**16.20.160 Improvement and upgrading of public facilities and services.**

A. Whenever any property within the city is developed, the improvement and upgrading of public facilities and services which directly serve only the subject property and require improvement and upgrading as a result of the development of the property shall be paid for directly by the landowner or developer or by other means as arranged between the developer and the provider. Where physical or topographical conditions or other factors make the extension of a public facility or facilities concurrent with development impractical, the Community Development Director or designee may require a cash payment to the City in lieu of the extension of the facility or facilities, the amount of which shall be equal to the estimated cost of the extension(s) under more suitable conditions, or the developer's proportional share thereof as calculated by the City pursuant to subsection C below.



B. The need to improve or upgrade the public facilities and services as a result of the development of property shall be determined solely by the city or supplier of the facility or service. If the city makes such a determination for a city provided facility or service, such determination may be appealed per the provisions of Section 16.48.050 ~~to the city council only if the council itself did not make the determination.~~ Decisions on other determinations made by public or private utility companies, service districts, commercial businesses or other companies, agencies or organizations are outside the jurisdiction of the city and cannot be appealed to the council nor held binding by this section.

C. A developer may also be held responsible for a "fair share" part of the larger local improvement which is required as a result of the development of which the developer's proposal is a part and the resultant pressures for increased, extended or improved facilities and services. Such "fair share" may be assessed and collected by the appropriate company, agency, organization or governmental unit.

[...]

#### **Section 16.40.041 Review criteria.**

A. The proposed amendment is consistent with and promotes ~~the objectives of the plan~~ applicable Goals and Policies of the Comprehensive Plan of the city;

B. There is a demonstrated public need for a change of the specific type proposed;

C. That need will be best served by the amendment as proposed as compared with other alternatives;

D. The proposed amendment is consistent with the use and implementation of growth management mechanisms and capital improvement programs of the city;

E. The proposed amendment can be implemented by this land development title and all other appropriate codes, ordinances and regulations.

The applicant bears the entire burden of proof of establishing to the planning commission that the proposed amendment meets the above requirements. This burden of proof shall also apply to the city if it initiates a proposed amendment.

G. When an development application includes a proposed comprehensive plan amendment or land use district change, the proposal shall be reviewed to determine whether it significantly affects a transportation facility, in accordance with Oregon Administrative Rule (OAR) 660-012-0060. If a Master Plan that requires a full traffic impact analysis is required for a comprehensive plan map amendment/zone change area, a subsequent Master Plan may satisfy this provision, as determined by the City of Happy Valley community development director or designee.

#### **16.40.042 Filing requirements.**

A. In order to have a complete application for any proposed text amendment, the applicant shall submit:

1. The necessary application forms, and a narrative addressing applicable comprehensive plan objectives and policies, as well as the review criteria within Section 16.40.041.

B. In order to have a complete application for a proposed comprehensive plan map/zoning map or specific area map amendment, the applicant shall submit:

1. The necessary application forms, and a narrative addressing applicable Comprehensive Plan objectives and policies, as well as the review criteria within Section 16.40.041.

2. A conceptual development plan illustrating a proposed street system, lot pattern, neighborhood circulation plan within a five hundred (500) foot radius of the subject site, and any natural resource or steep slopes areas;

3. A traffic impact analysis study prepared by a professional, Oregon-licensed traffic engineer. If a Master Plan that requires a full traffic impact analysis is required for a comprehensive plan map amendment/zone change area, a subsequent Master Plan may satisfy this provision, as determined by the City of Happy Valley community development director or designee.

[...]

#### **16.40.080 Designation upon annexation to the city.**

Whenever any property or area is annexed to the city, the action by the city council to annex the property or area shall also include an ordinance to amend official map no. 11 the City's Comprehensive Plan Map/Zoning Map shall also be amended to reflect an appropriate designation of the city of Happy Valley, or to reflect the existing Clackamas County zoning which may serve as a "holding zone" until such time as a City Comprehensive Plan is in place for the annexed territory.

[...]

#### **16.40.100 Annexation to the existing city.**

For any proposed annexation to the city, application shall be made directly to the city of Happy Valley on the appropriate forms and accompanied with the required fee. Upon receipt of a copy of the form, the city shall schedule an informal review at the next regularly scheduled meeting of the planning commission. ~~At its next regularly scheduled meeting, the planning commission shall review the annexation application and formulate the city's response. That response shall be reviewed by the city council at its next regularly scheduled meeting~~ a public hearing before the Planning Commission, which shall make a recommendation to the City Council. The City may utilize any lawful annexation process under state, regional or local law, including the expedited annexation process established in the Metro Code.

#### **16.40.110 Deannexation from the existing city.**

For any proposed deannexation from the city, application shall be made directly to the city of Happy Valley on the appropriate forms and accompanied with the required fee. Upon receipt of a copy of the form the city shall schedule an informal review at the next regularly scheduled meeting of the planning commission. ~~At its next regularly scheduled meeting, the planning commission shall review the deannexation application and formulate the city's response. That response shall be reviewed by the city council at its next available regularly scheduled meeting~~ a public hearing before the Planning Commission, which shall make a recommendation to the City Council.

[...]

#### **16.52.010 Purpose.**

A. It is the purpose and intent of this chapter to establish design standards and performance requirements for all streets and roads and other transportation facilities constructed or reconstructed within the city, as well as to establish a process for variation from the streets standards.

B. The **public** residential streets standards shall be considered as minimum design requirements under ideal circumstances. All **public** residential streets in the city shall be designed as one of the standard prototypes **found within the City's Transportation System Plan (TSP)**, except as provided in Section 16.52.030~~0650~~ of this chapter. Approval of the appropriate street prototype shall be by the **city engineer (based on consultation with the City's traffic engineer)** ~~planning commission~~ as part of the review process as provided in this title and shall be based on the following considerations:

1. Street function needed within the existing proposed and future neighborhood and the city circulation networks;
2. Anticipated daily traffic volume;
3. Individual property access requirements;
4. Topographic variations and the amount of cut and fill required for the proposed street;
5. Soil and other field conditions.

~~C. Alternate design variations from the standard prototypes may be considered for approval by the planning commission if one of the following conditions are found to be present:~~

- ~~1. Existing local conditions create unusual circumstances where standards must be exceeded such as excessive or unstable slopes, mixed land uses to utilize the same street, or a bikeway link is needed;~~
- ~~2. Existing local conditions create unusual circumstances including but not limited to where standards must be reduced such as reducing sidewalks to one side of the street only, reducing street widths, reconstruction of a street in an existing neighborhood, for reduction of excessive cuts and fills, or steep cross slopes exist making reduced widths advisable and parking turnouts recommended, including but not limited to;~~
- ~~3. Variation is necessary to the overall design objectives of a particular proposed development such as parking turnouts and landscaped islands and circles for traffic control.~~

[...]

#### **16.52.020 Definitions.**

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

"Bikeway" means a strip of land, legally accessible to the public and improved per state bikeway manual standards and specifications.

"Cul-de-sac" means a street having one end open to traffic and the other end permanently closed and provided with a vehicular turnaround at the termination of such street.

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

#### **16.52.030 Street and road standards.**

##### **A. Horizontal Street Alignment.**

1. The layout of streets shall provide for the continuation of streets existing in adjoining partitions, subdivisions or planned unit developments or of their project alignments when adjoining property is not subdivided or partitioned.
2. The normal construction centerline shall be identical with the right of way centerline. In special cases, offset construction centerlines may be approved by the city engineer.

3. Curb line radii shall be concentric with the right-of-way line except in “cul-de-sacs” and “eyebrows” with a forty (40) foot right-of-way line radius, the minimum curb radius will be forty (40) feet unless approved by the planning commission.

4. Curb line radius at street intersections shall be twenty (20) feet unless otherwise designated by the planning commission. The property line radius shall be concentric with the curb line radius.

5. The minimum radius of curvature of streets shall be as follows:

- a. Parkway: Three hundred (300) feet;
- b. Neighborhood Collector: Two hundred (200) feet;
- c. Residential: One hundred (100) feet.

#### B. Vertical Street Alignment.

1. The minimum street centerline grade shall be one-half percent.

2. The maximum ~~desired~~ grade for any street is ten (10) percent, ~~and no grade shall exceed twelve (12) percent for a maximum length of two hundred (200) feet.~~ **Intersections and turnarounds shall have a maximum five percent grade with the exception of slight adjustments for crowning for water run-off.** Any proposed street (public or private) in excess of ~~ten~~ ~~twelve (10 12)~~ percent, **or intersection or turnaround above five percent** requires an **administrative** variance from the city, **including the submission of plans to the city engineer demonstrating that adequate efforts have been made to avoid the necessity for a variance. Granting of a variance in regard to street grade requires conformance with the currently adopted standards of the City and** ~~and approval from Clackamas County Fire District #1 or its successor in interest~~ **on a case by case basis.**

3. Grade changes in excess of one percent will require a vertical curve.

4. Vertical curves shall be parabolic.

5. Sag vertical curve design shall provide adequate gutter drainage without creating an uncomfortable “ride”. All other vertical curves shall be designed in accordance with the “Stopping Sight Distance” formulae as set forth by AASHTO in “A Policy on Arterial Highways for Urban Areas.”

6. Cul-de-sac, residential and neighborhood collector streets with grades in excess of five percent intersecting a parkway shall be designed to provide a flat stopping area outside of the traveling lanes of the minor arterial. Stopping area grades will not exceed five percent.

7. Curb corners shall be designed so that the grade shall flow smoothly from one street to the other with proper attention directed to drainage.

#### C. Specifications and General Design Standards.

1. Unless otherwise required by **adopted public works design standards (the Engineering Design and Standard Details Manual)**, the city engineer or this chapter, road specifications shall conform to the most recent issue of the Oregon state highway division’s “Standard Specifications for Highway Construction.”

2. **Structural Section.** All streets which are to be constructed must be designed and the design prepared by an engineer registered in the state of Oregon, and must conform to the **public works** design standards developed by the city of Happy Valley, **including the following:**

**a. Purpose. The typical sections to be used for each street classification are shown in the standard drawings. The city engineer may increase the structural design to conform to projected traffic loads or unstable soil conditions. Warped sections, excluding intersections, must be approved by the City Engineer.**

b. Variation. Sections utilizing other methods of construction than shown in the standard drawings (i.e., lime or cement treated subgrade, or portland cement or asphaltic cement treated base, etc.) may be submitted for review and approval by the City Engineer.

c. Structural Design. In areas determined unstable by the City Engineer, the design engineer will be required to submit a structural design for approval. Included in the submittal shall be the soils analysis on which the design was based. Streets may be constructed of:

i. Full depth asphaltic concrete; or

ii. Asphaltic concrete with crushed rock base or treated bases; or

iii. Portland cement concrete with a cushion course of crushed rock or on a base of crushed rock or treated base.

D. Asphalt Pavement Design:

1. The wearing surface of asphalt concrete (AC) streets shall be Level 2 HMAC, ½" Dense. Minimum total thickness of asphalt concrete shall be 3 ½" in two lifts. If thickness of asphalt concrete is 3 ½" or more, placement shall be in at least two lifts.

a. Asphalt pavement standard for all residential streets is 1 ½" of Level 2 HMAC, ½" Dense, over 2" of Level 2 HMAC, ¾" Dense. The minimum paving temperature limits for Dense Graded Mix is 40° F, based on a thickness of 2 ½", 50 °F based on a thickness between 1 ½"-2 ½", and 60° F for thicknesses less than 1 ½". The placement of HMAC at temperatures below these standards, to a minimum of 40° F ambient air temperature may be permitted under the following conditions, at the sole discretion of the City Engineer;

i. The City's Public Works Engineering Department shall be notified 48 hours in advance of intent to place HMAC pavement under the minimum conditions noted above;

ii. The project geotechnical engineer shall be present while HMAC is being placed;

iii. The project geotechnical engineer shall perform compaction testing of each lift of HMAC at a minimum interval of 50 feet along the length of the roadway;

iv. There shall be a minimum of three compaction tests across the road section per each 50-foot length of roadway submitted for the review and approval of the City Engineer, two of the three compacting tests shall meet compaction requirements standards and the third compaction test shall be within 95 percent of compaction requirement standards;

v. The compacting testing results shall meet the requirements of Section 00745.79 – Compaction QC, "Oregon Standard Specifications for Construction"; and,

vi. Failure to comply with the minimum compaction testing requirements may result in the removal of the substandard pavement surface upon direction of the City Engineer or designee.

2. Asphalt pavement may be designed using any nationally recognized procedure approved by the city engineer.

3. Street design variations. Alternate design variations from the standard prototypes found within the Transportation System Plan (TSP) or this Chapter may be considered for approval by the City Engineer if one of the following conditions are found to be present:

a. Existing local conditions create unusual circumstances where standards must be exceeded such as excessive or unstable slopes, mixed land uses to utilize the same street, or a pedestrian or bikeway link is needed;

b. Existing local conditions create unusual circumstances including but not limited to where standards must be reduced such as reducing sidewalks to one side of the street only,

**reducing street widths, reconstruction of a street in an existing neighborhood, for reduction of excessive cuts and fills, or steep cross slopes exist making reduced widths advisable and parking turnouts recommended, including but not limited to;**

**c. Variation is necessary to the overall design objectives of a particular proposed development such as parking turnouts and landscaped islands and circles for traffic control.**

All partitions, subdivisions or planned unit developments of ten (10) acres or more shall have at least two ingress-egress points serving at least one-half of the development and which shall connect with existing county or state roads, or city street, thereby providing for better traffic flow.

**4. On-Street Parking restrictions. On-street parking restrictions shall be per the most recent iteration of the Oregon Fire Code Applications Guide, as determined by Clackamas County Fire District No. 1.**

**5. Private streets. Private streets shall conform to all structural standards found within the public works design standards (the Engineering Design and Standard Details Manual), and this chapter. Private streets within single-family residential developments shall be designed to provide access to no more than five dwelling units, and at a minimum are required to include a 24-foot wide paved section, curb and gutter and five-foot wide sidewalk. Private streets serving attached housing and multi-family housing developments shall provide commercial drives in conformance with the City's Transportation System Plan and Engineering Design and Standards Details Manual.**

[...]

D. Rights of Way. Prior to issuance of building permits or recordation of final plat, the city shall require dedication of rights-of-way in accordance with the city's plan. All dedications shall be recorded with the county assessor's office. For partitions, the city shall also require a waiver of remonstrance against the formation of a local improvement district, and all non-remonstrances shall be recorded with the city prior to issuance of a building permit or recordation of a final plat. See Section 16.52.130.

1. When a tract of land is divided into parcels of more than one acre each, the commission may require an arrangement of lots and streets such as to permit a re-dividing into smaller lots in conformity with the street and lot requirements specified in this chapter.

E. City streets and roads shall comply with the following criteria:

1. Parkway:

- a. Center turn lanes required;
- b. Signalized at all intersecting principal and minor arterials or others as warranted or required;
- c. Flared intersections optional;
- d. Bus turnout required;
- e. Designated crosswalks at controlled locations;
- f. No parking within one hundred (100) feet of intersection as designated by signs or markings;
- g. Ninety (90) percent intersection angles, minimum seventy-five (75) percent. See Section 16.52.100;
- h. Streets at intersections shall be in alignment through the intersection;
- i. Two hundred (200) feet minimum distance between intersections.

2. Neighborhood Collector Streets:

- a. Signed as warrants require at intersecting parkways and neighborhood collectors;

- b. Ninety (90) percent intersections, minimum seventy-five (75) percent;
- c. No parking within thirty (30) feet of intersection as designated by markings;
- d. Minimum of two hundred (200) feet between intersections;
- e. Street at intersections shall be in alignment through the intersection.

3. Residential streets:

a. Ninety (90) percent intersection angle, minimum seventy-five (75) percent. See Section 16.52.100;

**b. Intersection spacing standards shall be as delineated within the City's Transportation System Plan (TSP) and when in conjunction with county roads, per the County's TSP and/or implementing regulations** Minimum of two hundred (200) feet between intersections;

- c. No parking within thirty (30) feet of intersection as designated by markings;
- d. Street at intersections shall be in alignment through the intersection;
- e. Signed as warranted or required;

f. Local streets will be designed primarily to provide access to abutting properties and shall be designed to discourage through traffic.

4. Cul-de-sac and Loop Turn-Around Streets:

a. Ninety (90) percent intersection encouraged, minimum seventy-five (75) percent. See Section 16.52.100;

b. Signed as warranted or required;

c. A cul-de-sac or dead end street shall be as short as practicable, but in no event more than eight hundred (800) feet in length. A cul-de-sac shall provide a turnaround without the use of a driveway. Dead end stub streets shall not be permitted if unless a foreseeable continuation can be demonstrated.

5. Subsurface Drainage:

a. Subsurface street drainage shall be an integral part of street design. Subsurface drains shall be designed and constructed to properly address the affected soil. In the event that no subsurface drainage is required based on a soils report, a transverse perforated drain pipe shall be installed below the sub-base rock at the point of each sag vertical curve. The subsurface drains are for the purpose of collecting and conveying subsurface water only, not surface runoff. They are not to be considered part of the storm drainage system for storm drainpipe sizing purposes;

b. Subsurface drains shall connect and drain into the storm drainage system at catch basins, curb inlets, gutter inlets, manholes or roadside ditches. Surcharge from the storm drainage system shall not be allowed to back up into the subsurface drains. Alternative subsurface drainage measures may be used if approved by the city engineer.

6. Guardrails. The following specifies the minimum requirements for the location and type of guardrails:

a. The decision of whether to install a guardrail or not shall be based on information found in the AASHTO publication, "Guide for Selecting, Locating and Designing Traffic Barriers";

b. Guardrails shall be designed and constructed per ODOT's Standard Drawings for Design and Construction.

7. Transitions. Street width transitions from a narrower width to a wider width shall be designed with a three to one taper. Delineators, as approved by the city engineer, shall be installed to define the configuration.

a. For street width transitions from a wider width to a narrower width, the length of transition taper shall be determined as follows:

$L = S \times W$  for  $S = 45$  mph or more

$L = \frac{W \times S^2}{60}$  for  $S$  less than 45 mph

Where  $L$  = minimum length of taper (feet)

$S$  = design speed (mph)

$W$  = EP to EP offset width

b. Delineators, as approved by the city engineer, may be installed to define the configuration. Maximum spacing of delineators shall be the numerical value of the design speed, in feet, i.e., thirty-five (35) foot spacing for thirty-five (35) mph;

c. In situations where a tapered transition cannot be provided, a barricade shall be installed at the end of the wider section of the street and a taper shall be appointed and delineated as approved by the city engineer. If the wider section does not provide an additional travel lane, only a barricade is required without the transition.

8. Superelevation Cross-sections. Off-set crown cross-sections are not acceptable as superelevation sections.

9. Stub Streets. Stub streets allow for future extensions and a reserve strip at the terminus of the right-of-way shall be provided. Such reserve strip shall be at least one foot in width and extend the full width of the right-of-way for the purpose of withholding access from the adjacent property to such street until such time as a complete street is constructed. A barrier may be required at the discretion of the city.

10. Utilities. On all phased (interim) road improvements, the necessary utilities shall be stubbed across the interim improvement to assure cuts are not necessary when the road is expanded to its full width.

a. Underground utilities being constructed along existing paved streets shall not be located under the existing pavement unless approved by the city engineer. Underground utilities that must cross an existing paved street shall not be installed by any method which cuts the pavement unless approved by the city engineer;

b. Underground utilities shall be buried a minimum depth of thirty (30) inches as measured from finished grade to top of utility;

c. Street lights shall be located as required to provide proper illumination but shall not physically or visually interfere with vehicle or pedestrian traffic.

11. Curbs and Grading. The following specifies the requirements for curbs and cross-slope grading for streets:

a. All new or improved streets and roads shall include combination curbs and gutters as illustrated in the standard drawings on both sides except in the situations of interim width improvements. Interim designs shall have shoulders and ditches;

b. Interim width urban streets shall have six foot wide shoulders adjacent to the street at a two and one-half percent cross-slope and roadside ditches each side of the shoulders with a maximum side-area slope of two to one. The six foot shoulder area may consist of a section of pavement and/or a section of crushed rock. The pavement section shall be a minimum of two feet wide and a maximum of six feet wide.



12. Grading outside the improved areas shall be as follows:

- a. Neighborhood collectors or higher functional classifications shall have a two and one-half to one upward grading to the right-of-way line and no steeper than one and one-half to one up or two to one down outside the right-of-way;
- b. Residential streets and commercial functional classifications shall have a two and one-half to one upwards grading to the right-of-way line, a five to one upward or downward grading within the public utility easement and no steeper than one and one-half to one outside the right-of-way;
- c. Retaining walls shall be used if slopes are greater than the one and one-half to one requirement in the paragraphs above. Retaining walls shall be constructed to a height where the slope is no more than one and one-half to one;
- d. Cross-slope of the street section shall be no less than two and one-half percent and no greater than five percent. Whenever possible, the crown of the street shall be the same elevation as the top of the curbs.

13. Raised Medians. Raised medians are allowed on certain streets as approved by the planning commission.

1. Where raised medians are allowed, the following criteria must be met:

- a. The raised median shall be set back at least two feet from the median lane on both sides;
- b. Raised medians within a cul-de-sac bulb shall require mountable curb and gutters on the outside of the radius for emergency vehicles;
- c. Street lighting shall be sufficient to provide illumination of the raised median;
- d. Objects, such as trees, shrubs, signs, light poles, etc., shall not physically or visually interfere with vehicle or pedestrian traffic in the travelway;
- e. The style and design of the raised median shall be site specific. The raised median designs and landscaping shall be subject to planning commission approval.

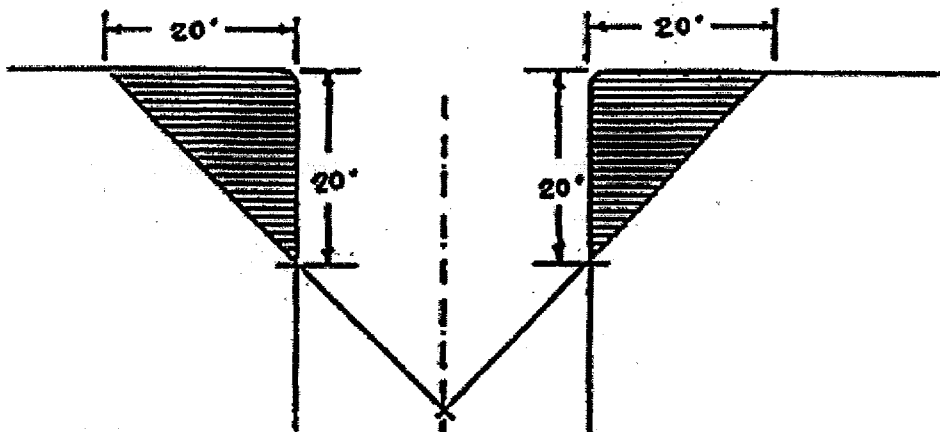
14. Sight Distance. Adequate sight distance must also be provided for the traffic on the main street to see traffic entering or exiting the driveway or cross street and for motorists making left turns into the driveway or cross street. Adequate sight distance calculations vary by location and condition of the roadway and should be made utilizing procedures developed by the Institute of Transportation Engineers and the American Association of State Highway and Transportation Officials.

15. Corner or clear vision areas:

- a. A clear vision area shall be maintained on each corner of property at the intersection of any two streets, or a street and a driveway. No structures, plantings or other obstructions that would impede visibility between the height of thirty (30) inches and ten (10) feet shall be allowed within such area. Measurements shall be made from the top of the curb or when there is no curb, from established street centerline grade. However, the following items shall be exempt:
  - i. Light and utility poles with a diameter less than two inches,
  - ii. An existing tree, trimmed to the trunk, twelve (12) feet above the curb,
  - iii. Official warning or street sign;
  - iv. Natural contours where the natural elevations are such there can be no cross-visibility at the intersection and necessary excavation would result in an unreasonable hardship on the property owner or deteriorate the quality of the site.
- b. Vision clearance areas shall be established by the triangular area formed by the intersection of the driveway or street, the street right-of-way line, and a straight line adjoining such lines

through points twenty (20) feet from their point of intersection. However, such area may be adjusted as follows:

- i. Single-family driveways: fifteen (15) feet,
- ii. Alleys: fifteen (15) feet.



Driveway Vision Clearance

c. Intersection and Driveway Sight Distances. Intersections and driveways should be located and designed so that the motorist approaching the main street from the driveway or cross street has adequate sight distance to the right and left before proceeding into the main street. The sight distance requirement should be determined by the city engineer and measured from the motorist's position when the vehicle is in a stopped position ten (10) feet behind the edge of the pavement of the main street. The sight distance will vary depending upon the prevailing speed on the main street.

d. Driveways constructed on streets without curbs shall meet the minimum intersection sight distance requirements.

16. Vertical Clearance. A minimum clearance of fourteen (14) feet above the pavement surface shall be maintained over all streets and access drives.

17. Interim Improvement Standards. It is anticipated that all existing streets, except those in new subdivisions, will require complete reconstruction to support urban level traffic volumes.

However, in most cases existing and short-term projected traffic volumes do not warrant improvements to full standards. Therefore, unless otherwise specified by the planning commission, interim standards as determined by the city engineer shall apply:

a. Arterials: Twenty-four (24) feet paved, with standard (approved) sub-base and a tapered rural or turnpike shoulder. Asphalt overlays are generally considered unacceptable, but may be considered as an interim improvement based on the recommendations of the city engineer regarding adequate structural quality to support an overlay.

18. In order to provide adequate travel lanes and stormwater drainage, roadway improvements that are constructed within areas abutting multiple properties are required to construct "three-quarter" streets along the applicable frontage of a subject site (curb,

gutter, sidewalk, planter strip and a full paved section designed to accommodate stormwater drainage per CCSD#1 specifications). Half-streets are generally considered unacceptable. However, where the planning commission review authority finds that due to extenuating circumstances ~~a~~ it is essential to allow for reasonable development, a half-street may be approved. Whenever a half-street improvement is approved, it shall conform to the following standards:

a. Minimum pavement width:

i. Neighborhood Collector: Twenty-four (24) feet;

ii. Residential: Twenty (20) feet.

b. Intersection improvements adequate to provide turn lanes shall be provided as follows:

i. Parkway: Forty (40) feet paved for two hundred fifty (250) feet beyond the centerline of intersecting streets;

ii. Neighborhood Collector: Thirty-six (36) feet paved for one hundred fifty (150) feet beyond the centerline intersecting streets.

c. A reserve or access control strip.

**In cases where unimproved (gravel) or under-improved (paved section width less than that required by street classification) public right-of-way serves a proposed development, off-site improvements shall at a minimum, include the construction of a full paved section per the applicable street standard, designed to accommodate stormwater drainage per CCSD#1 specifications. Said improvements shall continue to an adequately improved public right-of-way, as determined by the city engineer.**

19. As-Built Drawings. Upon completion of the work, the design engineer shall submit the original or mylar copies of "as-built" drawings. Information to be included in the as-built drawings shall encompass field notes and measurements furnished by the design engineer, inspector, contractor or others.

20. Miscellaneous Information. The expense related to modification of an existing street to accommodate proposed access, including all traffic control devices and lighting, shall be paid for by the developer.

[...]

**16.52.050 Miscellaneous streets—Specific standards.**

~~A. In commercial and high density residential areas and other areas of high traffic volume, the right-of-way widths shall be determined in accordance with the standards for neighborhood collector streets. The width of pavement shall be recommended by the city engineer based on the requirements for number and width of travel lanes, number and width of on-street parking lanes, and the need for protected turning movements. Curbs, gutters and storm drain systems shall be required.~~

~~B. Loop turn-around streets shall be considered acceptable principally in residential areas only.~~

~~C. Cul-de-sacs shall generally be designed with a circular closed end with sufficient radius and right-of-way to allow for utilities, street lights, sidewalks, bikeways, etc. Use of a "fish tail" or "hammerhead" configuration must be approved by the planning commission. Sidewalks four feet wide shall be provided on each side of the cul-de-sac.~~

~~D. One-way residential streets may be less than twenty (20) feet wide, subject to approval of the planning commission.~~

[...]

**16.52.080 Private roads.**

Private roads within planned developments must be approved by the city. (Criteria to be developed.)

**16.52.090 Structural section.**

A. Purpose. The typical sections to be used for each street classification are shown in the standard drawings. The city engineer may increase the structural design to conform to projected traffic loads or unstable soil conditions. Warped sections, excluding intersections, must be approved by the city engineer.

B. Variances. Sections utilizing other methods of construction than shown in the standard drawings (i.e., lime or cement treated subgrade, or portland cement or asphaltic cement treated base, etc.) may be submitted to the planning commission for approval after review by the city engineer.

C. Structural Design. In areas determined unstable by the city engineer, the design engineer will be required to submit a structural design for approval. Included in the submittal shall be the soils analysis on which the design was based.

D. Streets may be constructed of:

1. Full depth asphaltic concrete; or
2. Asphaltic concrete with crushed rock base or treated bases; or
3. Portland cement concrete with a cushion course of crushed rock or on a base of crushed rock or treated base.

E. Asphalt Pavement Design:

1. The wearing surface of asphalt concrete (AC) streets shall be type C. Minimum total thickness of asphalt concrete shall be three inches in two lifts. If thickness of asphalt concrete is three inches or more, placement shall be in at least two lifts.
2. Asphalt pavement may be designed using any nationally recognized procedure approved by the city engineer.

[...]

**16.52.120 Sidewalks and bikeways.**

A. Purpose. Requirements for sidewalks and bikeways shall be as delineated within the Transportation System Plan (TSP) follows:

Street Classification	Sidewalk Requirement	Width Requirement
Parkway Neighborhood	Both sides	Four (4) feet
Collector Street Residential	Both sides	Four (4) feet
Street Loop	Both sides	Four (4) feet
Turn-around	Both sides	Four (4) feet
Cul-de-sac	Both sides	Four (4) feet

B. ~~The planning commission shall specify whether bikeways will be required for a particular area.~~

C. Sidewalks.

1. Sidewalks may be either private or public, depending on their location inside or outside of the public right-of-way;

2. Sidewalks shall tie to public streets at locations determined by the city engineer ~~planning commission~~;

3. The surfacing of public sidewalks shall consist of three and one-half inches minimum of concrete. Private sidewalks may be constructed of two inches of asphaltic concrete over a minimum of four inches of compacted crushed rock. Other materials must be specifically approved by the city engineer ~~planning commission~~;

4. Sidewalks shall have a maximum grade of fifteen (15) percent. Where steeper grades are encountered, steps may be used;

5. Ramps for handicapped use are required on all sidewalks used by the public at all points where a path intersects a curb;

6. Sidewalks must be constructed in such a way as to allow the surface drainage to sheet flow across them, and not follow them longitudinally;

7. Public sidewalks shall be located either in a public easement or over land dedicated to the public;

8. Sidewalks may meander within the right-of-way with city engineer ~~planning commission~~ approval;

9. Alternate Sidewalk Location. It is the general policy of the city to place sidewalks off the traveled portion of any roadway. In areas where the placement of the sidewalk would result in the removal of significant trees or the construction of significant fill or cut slope or in other cases deemed appropriate by the city engineer ~~planning commission~~, the sidewalk may be placed elsewhere with a design approved by the ~~planning commission, after review by the city engineer.~~

D. Bikeways.

1. Bikeways shall be public;

2. ~~The need for bikeways shall be determined by the city planning commission;~~

3. Bikeways facilities shall meet the requirements of this document and the American Association of State Highway and Transportation Officials publication, "Guide for Development of New Bicycle Facilities," as amended and adopted by the Oregon Department of Transportation;

~~34.~~ Bikeways must be constructed in such a way as to allow the surface drainage to sheet flow across them, and not follow them longitudinally;

~~45.~~ A bikeway may be constructed adjacent to the curb within the pavement area;

~~56.~~ Structural sections of bikeway facilities on streets shall conform to that of the street or be integral with the curb. Bikeway facilities off street shall be constructed over a sterilized (if covered by asphalt concrete), compacted subgrade with one of the following structures:

a. Three inches of asphalt concrete with four inches of three-quarter inch or minus rock base, or

b. Three and one-half inches of portland cement concrete with two inches of three-quarter inch or minus rock base.

7. Design standards regarding horizontal alignment, grade, sight distance, intersections, signing, marking, structures, drainage and lighting shall conform to the AASHTO standards. When

bikeways are integrated with a curb, all inlet grates shall be designed to protect the bicyclist from the grate or opening;

8. Bikeways shall be located either in a public easement or over land dedicated to the public. The design of bikeways shall conform to city standards.

[...]

**16.64.010 Purpose.**

This chapter permits construction of model homes in conjunction with preliminary approval the construction of a residential subdivision pursuant to Section 16.16.100(D) of this title. (Ord. 261 Exh. A (part), 2003)

[...]

**16.64.030 Process.**

A model home may be approved by the planning commission concurrently with an application for preliminary approval of a residential subdivision or subsequent to preliminary approval of a residential subdivision, following expiration of any appeals to the city council and if applicable the Land Use Board of Appeals and prior to final plat approval. ~~The request for construction of a model home will be processed consistent with the administrative procedures required for the subdivision application provided under Chapter 16.16 where applicable~~ Model homes that are applied for subsequent to a preliminary subdivision approval shall be evaluated utilizing the City's administrative review process.