



Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050
Fax (503) 378-5518
www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

11/30/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Happy Valley Plan Amendment
DLCD File Number 007-10

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: Monday, December 13, 2010

This amendment was submitted to DLCD for review 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 Acknowledgment or 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. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Michael Walter, City of Happy Valley
Gloria Gardiner, DLCD Urban Planning Specialist
Jennifer Donnelly, DLCD Regional Representative

<paa> YA



FORM 2

DLCD

Notice of Adoption

This Form 2 must be mailed to DLCD within **5-Working Days after the Final Ordinance is signed** by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

DATE STAMP	<input type="checkbox"/> In person <input type="checkbox"/> electronic <input type="checkbox"/> mailed
	DEPT OF
	NOV 23 2010
	LAND CONSERVATION AND DEVELOPMENT
For Office Use Only	

Jurisdiction: City of Happy Valley

Local file number: LDC-05-10

Date of Adoption: 11-16-10

Date Mailed: 11-22-10

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: 9-2-10

☐ Comprehensive Plan Text Amendment

☐ Comprehensive Plan Map Amendment

☒ Land Use Regulation Amendment

☐ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

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

The City adopted the Administrative "Housekeeping" amendments to the City's Development Code.

Does the Adoption differ from proposal? Please select one

Yes

Plan Map Changed from: N/A

to: N/A

Zone Map Changed from: N/A

to: N/A

Location: N/A

Acres Involved: N/A

Specify Density: Previous: N/A

New: N/A

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☐ YES ☒ NO

Did DLCD receive a Notice of Proposed Amendment...

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

DLCD file No. 007-10 (18501) [16429]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

City of Happy Valley
Metro

Local Contact: Michael D. Walter

Phone: (503) 783 3839 Extension:

Address: 16000 SE Misty Drive

Fax Number: 503 658 5174

City: Happy Valley

Zip: 97086

E-mail Address:

michaelw@ci.happy-valley.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light green paper if available.
3. Send this Form 2 and One (1) Complete Paper Copy and One (1) Electronic Digital CD (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD 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**
7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

Updated December 22, 2009

CITY OF HAPPY VALLEY
ORDINANCE NO 406

AN ORDINANCE AMENDING COMPREHENSIVE PLAN POLICY NO. 3 AND MULTIPLE SECTIONS OF
TITLE 16 (DEVELOPMENT CODE) OF THE CITY OF HAPPY VALLEY MUNICIPAL CODE –
ADMINISTRATIVE AMENDMENTS, AND DECLARING AN EMERGENCY

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

WHEREAS, Application LDC-05-10 was a staff, Planning Commission and City Council initiated request to amend Comprehensive Plan Policy No. 3 and sections of the City's Municipal Code as detailed within Exhibit "A"; and

WHEREAS a hearing was held before the City of Happy Valley Planning Commission on October 26, 2010; and

WHEREAS, the Planning Commission recommended the City Council approve the changes to Comprehensive Plan Policy No. 3 and Title 16 of the Municipal Code as detailed in the Staff Report to the City Council dated November 16, 2010; 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 Council of the City of Happy Valley, Oregon, has determined that it is reasonable, necessary and in the public interest to make the proposed amendments as detailed within Exhibit "A"; and

WHEREAS, the Council hereby adopts the proposed amendments as detailed in Exhibit "A", as supported by the Findings of Fact in the Staff Report to the City Council dated November 16, 2010, and as discussed at the regular meeting of the City Council on November 16, 2010; and

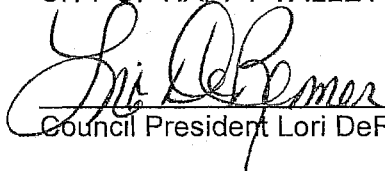
NOW, THEREFORE, based on the foregoing,

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

- Section 1. The City of Happy Valley declares that the amendments to Comprehensive Plan Policy No. 3 and Title 16 of the City's Municipal Code be amended as set forth as part of Exhibit "A" and are fully incorporated herein.
- Section 2. The City of Happy Valley declares that the Findings of Fact included within the Staff Report to the City Council dated November 16, 2010 are hereby adopted in conjunction with this Ordinance.
- Section 3. An emergency is declared to exist and as provided by Section 32 of the Happy Valley City Charter this Ordinance takes effect on November 16, 2010.

PASSED AND APPROVED THIS 16th day of November, 2010

CITY OF HAPPY VALLEY


Council President Lori DeRemer

ATTEST:


Marylee Walden, City Recorder



City of Happy Valley, City Council
AGENDA STATEMENT

Meeting Date: November 16, 2010

Item Title:

Proposed Municipal Code Amendments

Prepared by:

Michael D. Walter, AICP – Economic & Community Development Director

Explanation:

The following proposed administrative amendments represent City initiated amendments to a single Comprehensive Plan Policy (Policy 3) and multiple amendments to Title 16 (Development Code). The proposed changes are presented either as corrections necessary due to past amendments, responses to issues identified by staff, or responses to issues identified by property owners, consultants and legal counsel.

Special Issues:

Ramifications to home occupations/neighborhoods and political signage due to code amendments.

Financial Impact:

Potential Code Enforcement actions.

Option 1: Review proposed code amendment language and Planning Commission recommendation and approve with or without further edits.

Option 2: Do not approve the proposed code amendment language and Planning Commission recommendation.

Recommendation: OPTION 1

Attachments:

1. Staff Report to the City Council dated November 16, 2010
2. Ordinance No. 406

Mayor
Honorable Rob Wheeler



City Manager
Jason A. Tuck

**CITY OF HAPPY VALLEY
STAFF REPORT TO THE CITY COUNCIL**

NOVEMBER 26, 2010

LAND DEVELOPMENT CODE ADMINISTRATIVE AMENDMENTS

FILE NUMBER: LDC-05-10

I. GENERAL INFORMATION:

The following proposed administrative amendments represent City initiated amendments to Title 16 (Development Code) of the City's Municipal Code. The proposed changes are presented either as corrections necessary due to past amendments, responses to issues identified by staff, or responses to issues identified by property owners, consultants and legal counsel.

EXHIBITS:

- A. Staff Report and Findings of Fact
- B. Public Notice

II. PROPOSED AMENDMENTS:

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

DRAFT

COMPREHENSIVE PLAN POLICIES:

[...]

Policy 3: ~~Deleted by Ordinance No. 388, May 5, 2009~~ **The City's Comprehensive Plan and Policies shall be available to any property that seeks to annex to within the city limits. Provision of all city services to unincorporated Clackamas County properties are available to property owners that desire annexation, and are provided via the auspices of City Comprehensive Plan Map designations and zoning districts, as well as the provisions of the City's Municipal Code.**

16000 SE Misty Drive
Happy Valley, Oregon 97086
Telephone: (503) 783-3800 Fax: (503) 658-5174
Website: www.ci.happy-valley.or.us

Preserving and enhancing the safety, livability and character of our community

ATTACHMENT #

1

MUNICIPAL CODE SECTIONS:

TITLE 16 DEVELOPMENT CODE

Chapter 16.22 RESIDENTIAL LAND USE DISTRICTS

16.22.020 Very low density residential zones.

[...]

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

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

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

Land Use	R-40	R-20	R-15
Other			
<u>Solar energy collection apparatus</u>	<u>P¹</u>	<u>P¹</u>	<u>P¹</u>
<u>Wind power collection apparatus</u>	<u>C¹</u>	<u>C¹</u>	<u>C¹</u>
Notes:			
<u>¹ Permitted only as an accessory use, subject to applicable building height maximum.</u>			

[...]

16.22.030 Low density residential zones.

[...]

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

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

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

Land Use	R-10	R-8.5	R-7
Other			
<u>Solar energy collection apparatus</u>	<u>P²</u>	<u>P²</u>	<u>P²</u>
<u>Wind power collection apparatus</u>	<u>C¹</u>	<u>C¹</u>	<u>C¹</u>
Notes:			
¹ Location: Duplexes and triplexes must be located on a corner lot or adjacent to the intersection of two streets.			
<u>² Permitted only as an accessory use, subject to applicable building height maximum.</u>			

[...]

16.22.040 Medium density single-family residential zones.

[...]

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

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

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

Land Use	R-5	MUR-S
Other		
Solar energy collection apparatus	P³	P³
Notes: ¹ Location: Duplexes and triplexes must be located on a corner lot or adjacent to the intersection of two streets. ² Neighborhood commercial uses subject to the provisions of Section 16.44.080. ³ Permitted only as an accessory use, subject to applicable building height maximum.		

[...]

16.22.050 High density residential—Attached.

[...]

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

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

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

Land Use	SFA	MUR-A	VTH
Other			
Solar energy collection apparatus	P ³	P ³	P ³

[...]

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

[...]

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

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

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

Land Use	MUR-M Multifamily	MUR-X Mixed Buildings
Other		
Solar energy collection apparatus	P	P
NOTES: ¹ Neighborhood commercial use subject to the provisions of Section 16.44.080. ² Where scale and trip generation are compatible with residential development.		

NOTES:

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

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

³ Permitted only as an accessory use

[...]

16.23.010 Mixed Use Commercial and Employment Districts.

A. Purpose.

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

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

[...]

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

Standard	MUC	MUE	MUE-NC
Residential density: ¹			
Low density (maximum)	24 du/net acre	24 du/net acre	NA
Low density (minimum)	15 du/net acre ²	15 du/net acre ²	NA
Medium density (maximum)	34 du/net acre	NA	NA
Medium density (minimum)	25 du/net acre ²	NA	NA
High density (maximum)	50 du/net acre	NA	NA
High density (minimum)	35 du/net acre ²	NA	NA
Lot size (minimum)	Variable ³	Variable ³	See 16.23.010(D)(3)
Lot width (minimum)	Variable ³	Variable ³	Variable ³
Lot depth (minimum)	Variable ³	Variable ³	Variable ³
Floor area ratio			See 16.23.010(D)(3)
Nonresidential FAR (minimum)	0.25:1 ⁴	0.25:14	
Nonresidential FAR (maximum)	5:1	2:1	
FAR for mixed use building with residential uses (minimum)	0.25:1	0.25:1	
FAR for mixed use building with residential uses (maximum)	5:1	3:1	
Landscaping (minimum)	Variable ⁵⁴	Variable ⁵⁴	Variable ⁵⁴

Standard	MUC	MUE	MUE-NC
Building setbacks (minimum):	Variable ³	Variable ³	Variable ³
Building height (maximum)	65 feet ³	65 feet ³	65 feet ³
NOTES: ¹ Density calculations shall be made pursuant to Section 16.63.020(F). ² Minimum density of eighty (80) percent of each sub-area is required. ³ Building height is measured pursuant to Chapter 16.12, Definitions. Standards are flexible and shall be determined through the master plan process or a design review. ⁴ Must include a shadow plan to establish future development. ⁵ Pursuant to Section 16.42.030, fifteen (15) percent of the net developable area must be usable open space.			

[...]

Site Size and Allowable Floor Area Standards.

- a. Dimensional standards for retail development in the Neighborhood Commercial Subdistrict are located in Table 16.23.010-3.

Table 16.23.010-3 Maximum Areas for MUE Neighborhood Commercial Retail Uses ¹

	Street Frontage Arterial ²	Street Frontage Collector ²	Street Frontage Local Street ²
Maximum retail only site area	3 acres	2 acres	1 acre
Maximum retail only building footprint area	10,000 square feet	5,000 square feet	3,000 square feet
Maximum individual retail use area (gross leasable area)	5,000 square feet	5,000 square feet	3,000 square feet
Maximum retail only building floor area ratio (measurement of building footprint area relative to the neighborhood commercial site area)	0.25:1	0.25:1	0.25:1
NOTES: ¹ This table applies standards only for tenants or buildings that are proposed solely for retail use. Mixed use buildings, as defined in subsection 16.23.010(D)(1)(b) are not regulated by this table. ² In case of multiple frontages, use higher classification.			

[...]

Chapter 16.42 LANDSCAPING, STREET TREES, FENCES AND WALLS

16.42.030 Landscaping standards.

[...]

- D. Parking Lot Landscaping.

1. Except for a residential development that has landscaped yards, parking facilities shall include landscaping to cover not less than fifteen (15) percent of the area devoted to parking facilities. The landscaping shall be uniformly distributed throughout the parking area and may consist of trees, shrubs, and groundcovers.

2. Screening of all parking areas containing four or more spaces and all parking areas in conjunction with an off-street loading facility shall be required. Where not otherwise specified by district requirement, screening along a public right-of-way **and the parking area perimeter** shall include a minimum ten (10) feet depth of buffer plantings adjacent to the right-of-way **and along the perimeter of the parking area**.

3. When parking in a commercial or industrial district adjoins a residential zoning district, a sight-obscuring screen that is at least eighty (80) percent opaque when viewed horizontally from between two and eight feet above the average ground level shall be required. The screening shall be composed of materials that are an adequate size so as to achieve the required degree of screening within two years after installation.

4. Parking areas shall be divided into bays of not more than eight spaces in parking areas with twenty (20) or more spaces. Between, and at the end of each parking bay, there shall be planters that have a minimum width of five feet and a minimum length of seventeen (17) feet for a single depth bay and thirty-four (34) feet for a double bay. Each planter shall contain one major structural tree and groundcover. Truck parking and loading areas are exempt from this requirement.

[...]

J. Buffer Planting—Parking, Loading and Maneuvering Areas.

1. Buffer plantings are used to reduce building scale, provide transition between contrasting architectural styles, and generally mitigate incompatible or undesirable views. They are used to soften rather than to block viewing. Where required, a mix of plant materials shall be used to achieve the desired buffering effect.

2. Any use which is required to provide off-street parking for five or more vehicles shall provide buffering of the parking areas on all sides which face directly upon and are within one hundred (100) feet of any property line of the subject site. Buffering shall include, in addition to required street trees for the project as a whole, fencing or plantings at the immediate perimeter of the parking area which shall be of sufficient height and density, year around, to obscure sight lines to the parked vehicles and negate the impacts of headlights.

3. Boundary plantings shall be used to buffer these uses from adjacent properties and the public right-of-way. On-site plantings shall be used between parking bays, as well as between parking bays and vehicle maneuvering areas. A balance of low-lying groundcover and shrubs, and vertical shrubs and trees shall be used to buffer the view of these facilities.

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

16.42.050 Tree cutting and preservation.

[...]

C. Type A Permits.

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

- a. The applicant proposes to remove a maximum of three trees;
- b. The property 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 LDC;

- d. The property does not contain trees protected as a condition of approval of development pursuant to the LDC; 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 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 two hundred fifty dollars (\$250.00) per tree. **Mitigation requirements shall not apply to trees removed that are identified by a certified arborist as dead or dying. An arborist report is not required if the Planning Official or designee can easily determine that the tree(s) in question are no longer living.** All replacement trees shall measure, by caliper method, one and three-quarters inches (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 (C)(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.~~

7. An applicant for a Type A permit is responsible for obtaining all necessary state and federal permits that may, in addition to City approvals, be required for a tree removal proposal. This includes abiding by state and federal wildlife protection laws.

D. Type B Permits.

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

2. Type B permit applications shall contain all information required for a Type A application as provided in subsection C above. In addition, a Type B application shall include:

a. A tree survey prepared by a certified arborist, or other qualified landscape specialist as approved by the City, which describes size, species, health and condition of trees, and a map at a minimum scale of one inch equals one hundred (100) feet, that locates trees on the property. **Tree survey's are not required for dead or dying trees, or for trees located within the development envelope and associated tree impact zone around the development area.** Drainageways, wetlands and surface water features shall also be identified on the map, unless waived by the Planning Official or designee;

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

c. All trees removed pursuant to a Type B permit shall be replaced on a basis of up to three trees replanted for each tree removed, quantity to be determined by the Planning Official or designee. **Mitigation requirements shall not apply to trees removed that are identified by a certified arborist as dead or dying. An arborist report is not required if the Planning Official or designee can easily determine that the tree(s) in question are no longer living.** For Type B permits, the City may require that replacement trees have shade or erosion control potential or other characteristics comparable to or greater than the removed trees. Replacement trees shall be appropriately chosen for the site from an approved tree species list supplied by the City (see Appendix A), or as approved by a representative of the City, and shall be nursery Grade No. 1 or better. All replacement trees shall be at least one and three-quarter inches (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. Where it is not feasible or desirable to relocate or replace trees on site, relocation or replacement may be made at an approved alternate public property in the City, or the property owner, builder or developer may make financial contribution to the City's "Tree Bank" equal to two hundred fifty dollars (\$250.00) per tree.

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 thirty (30) days, the City shall notify an applicant if the application is deemed complete or not complete.

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.

5. Tree removal from forested lands outside of commercially viable tree farms pursuant to the definition of "tree farm" preceding building construction or land development activities is prohibited. Tree farms and fruit or nut orchards that can demonstrate current commercial growing and harvesting operations shall be excluded from the provisions of this title, except where the removal of trees would create a significant increase in erosion as determined by the City Engineer, in which case a Type A or Type B permit shall be required.

6. An applicant for a Type B permit is responsible for obtaining all necessary state and federal permits that may, in addition to City approvals, be required for a tree removal proposal. This includes abiding by state and federal wildlife protection laws.

[...]

16.42.060 Fencing, walls and screening.

[...]

C. All fencing, walls or screening shall be subject to the following standards and requirements:

1. Side and Rear Setback Areas. In any residential district, a "stand-alone" fence or decorative wall not to exceed six feet in height may be located or maintained within the required interior side or rear yards. For exterior side yards within corner lots, a maximum six-foot tall fence or decorative wall may exist within the exterior side yard to the point of the front building line, or the presence of any site visibility area and/or easement, whichever occurs first. However, a fence which is structurally engineered by determination of the Building Official and receives a building permit may be constructed to a maximum height of eight feet.

2. Front Property Setback Areas. Within any required front yard, a maximum four-foot tall fence or decorative wall may exist within the front yard, unless located within a site visibility area and/or easement, in which case said fence or decorative wall shall not exceed two and one-half feet in height.

3. In any district, trees, shrubbery, berms, arbors, trellises and similar landscape features are permitted in all required yards provided that on corner lots no object or planting shall obscure vision between the vertical heights of two and one-half feet and eight feet, as measured from the adjoining curb elevation, for the triangular area which has sides extending from the corner of the property in either direction, the same distance as the front yard setback requirement for that district.

4. Height and Opacity. Where landscaping is used for required screening, it shall be at least six feet in height and at least eighty (80) percent opaque, as seen from a perpendicular line of sight, within two years following establishment of the primary use of the site.

5. Chain Link Fencing. A chain link fence with slats shall qualify for screening only if a landscape buffer is also provided in compliance with this section.

6. The height of hedges, fences, walls, and berms shall be measured from the lowest adjoining finished grade, except where used to comply with screening requirements for parking, loading, storage, and similar areas. In these cases, height shall be measured from the finished grade of such improvements. Screening is not permitted within vision clearance areas.

7. Earthen berms up to six feet in height may be used to comply with screening requirements. Slope of berms may not exceed 2:1 and both faces of the slope shall be planted with groundcover, shrubs, and trees.

8. Long expanses of fences and walls shall be designed to prevent visual monotony through use of offsets, changes of materials and textures, or landscaping.

9. Fence height restrictions do not apply to public utility fences, "deer fences" or similar fences constructed of "wire mesh" type products, baseball backstops, or chain link fences enclosing schools and playgrounds.

[...]

Chapter 16.43 PARKING AND LOADING

16.43.030 Automobile parking standards.

A. General Requirements for Off-Street Parking and Loading.

1. Provision and Maintenance. The provision of required off-street parking for motor vehicles and bicycles, and loading facilities for motor vehicles, is a continuing obligation of the property owners. Building permits or other permits will only be issued after review and approval of site plans showing location of permanent access, parking and loading facilities.

2. No area shall be considered a parking space unless it can be shown that the area is accessible and usable for that purpose, and has maneuvering area for the vehicles, as determined by the Planning Commission or appropriate and designated body or agent.

3. New Structure or Use. When a structure is constructed or a new use of land is commenced, on-site vehicle and bicycle parking and loading spaces shall be provided in accordance with subsection B of this section or as otherwise modified through a planned development or specific area plan.

4. Alteration of Existing Structures. When an existing structure is altered to the extent that the existing use is intensified, on-site vehicle and bicycle parking shall be provided in the amount required for such intensification.

5. Increased Intensity. When increased intensity requires no more than two vehicle spaces, no additional parking facilities shall be required. However, the effects of changes, additions, or enlargements shall be cumulative. When the net effect of one or more changes generates a need for more than two spaces, the additional required spaces shall be provided. Additional spaces shall be required for the intensification but not for the original use.

6. Change in Use. When an existing structure or use of land is changed in use from one use to another use as listed in subsection B of this section, and the vehicle and bicycle parking requirements for each use type are the same, no additional parking shall be required. However, where a change in use results in an intensification of use in terms of number of vehicle and bicycle parking spaces required, additional parking space shall be provided in an amount equal to the difference between the number of spaces required for the existing use and number of spaces required for more intensive use.

7. Time of Completion. Required parking spaces and loading areas shall be improved and available for use prior to issuance of a temporary occupancy and/or final building inspection.

8. Inoperative Motor Vehicles. In any residential district, all motor vehicles incapable of movement under their own power or lacking legal registration shall be stored in a completely screened space, garage, or carport.

9. Truck Parking. In residential zoning districts, no overnight parking of trucks or other equipment on wheels or tracks ~~exceeding a one-ton capacity used in the conduct of a commercial business activity~~ **used for commercial purposes** shall be permitted except **as allowed through the provisions of a Class B home occupation permit.** ~~¶~~ Vehicles and equipment necessary for farming and truck gardening on the premises where such use is conducted **are exempt from the restrictions of this subsection.**

10. Availability of Parking Spaces. Required vehicle and bicycle parking spaces shall be unobstructed and available for the parking of vehicles and bicycles of residents, customers, patrons, and employees only. Parking spaces shall not be used for the storage of vehicles or materials or for parking of vehicles and bicycles used in conducting the business or use, and shall not be used for sale, repair, or servicing of any vehicle or bicycle.

11. Unassigned Parking in Residential Districts.

a. Multifamily dwelling units with more than ten (10) required vehicle parking spaces shall provide unassigned parking. The unassigned parking shall consist of at least fifteen (15) percent of the total required parking spaces and be located to be available for use by all occupants and guests of the development.

b. Multifamily dwelling units with more than ten (10) required bicycle parking spaces may provide shared outdoor bicycle parking. The shared bicycle parking shall consist of at least fifteen (15) percent of the total required parking spaces and be located such that they are available for shared use by all occupants and guests of the development.

12. All dwellings shall have direct, impeded access from the required off-street parking spaces to the nearest public street, road or accessway.

B. Minimum Off-Street Parking Space Requirements and Calculations.

1. Unspecified Requirements. Vehicle and bicycle parking requirements for uses not specified in this chapter may be determined by the Planning Official based upon the requirements for similar specified uses.

2. Tandem parking (where two spaces are directly behind one another) may be counted as two parking spaces.

3. On-street parking within three hundred (300) feet of a use ~~along its property frontage~~ may be counted as part of the minimum spaces required, **provided that the on-street parking is located along the same street frontage as the subject property or properties.**

[...]

Chapter 16.44 SPECIAL STANDARDS FOR CERTAIN USES

16.44.010 Design standards for multifamily housing, single-family attached housing, duplexes and triplexes.

[...]

13. The Planning Official or designee may allow exceptions to these standards without the need to obtain a formal variance pursuant to Chapter 16.71 provided at least one of the following circumstances is met:

- a. The applicant demonstrates that the physical characteristics of the site or existing structure make compliance impractical (e.g., they include, but are not limited to, steep slopes, wetlands, other bodies of water, trees or other nature features of the site, buildings or other existing development, utility lines and easements, etc.); or
 - b. The applicant demonstrates that the alternative design is exceptional in the quality of detailing, appearance or materials and/or creates a positive unique relationship to other structures, views or open space in a manner that accomplishes the purpose of the Happy Valley Style Design Review described in Chapter 16.46 for nonresidential developments or, for residential developments, the purpose of the design review standards for multifamily and attached single-family developments in Section 16.44.010.
14. A request for exception under this provision may be processed as part of the underlying application or separately as a Design Review II application.

16.44.055 Accessory uses.

An accessory use shall comply with all requirements of a principal use, except as this title specifically allows to the contrary, and shall comply with the following limitations:

A. Fence limitations shall be as follows:

1. ~~No fence constructed or installed on an interior or rear property line shall exceed the height of six feet unless said fence is structurally engineered and receives building permit approval. In such cases, a fence may be constructed to a maximum height of eight feet. Evergreen or shrubbery planting may be maintained on such property lines when the neighbor is agreeable thereto.~~

2. ~~A fence located in a required front yard shall not exceed a height of two and one-half feet measured from the curb elevation or required side yard on the street side of a corner lot, forward of the front yard setback, shall not exceed a height of six feet. However, in all scenarios involving inadequate clear vision caused by fence construction on a corner lot, the fence shall either be relocated, or shall be limited to a maximum height of two and one-half feet measured from the curb elevation. Where adequate vision clearance exists at driveways, the Planning Official or designee may set the height of said fence.~~

3. ~~Fence height restrictions do not apply to public utility fences or to chain link fences enclosing school and public playgrounds.~~

BA. A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales.

CB. A garage, accessory storage and workshop building may be maintained accessory to a dwelling.

DC. An uncovered swimming pool may be located within a required rear yard or side yard behind the rear building line provided it is no closer than five feet to the property line.

1. Any pool forty-eight (48) inches in height above grade level is to be considered its own fence if the following conditions are met:

a. The method of entering the pool is a removable ladder or stair that is moved a safe distance from said pool when the pool is not in use.

b. If a deck or walkway is constructed around aforesaid pool that is over thirty (30) inches above grade, this deck or walkway must be equipped with a guardrail with

either vertical or horizontal members that will not permit passage of a nine-inch sphere. If no fence with self-closing and locking gates encloses the yards, one must be installed on the stair or ladder that serves as entry onto the deck or walkway. If more than one entry to deck or walkway is provided, all entries shall have self-closing and locking gates.

c. The pool must be set and maintained as pursuant to manufacturer's instructions.

2. Any pool installed at ground level or below ground level shall be protected against accidental entry by a fence not less than forty-eight (48) inches nor more than eighty-four (84) inches in height with a self-closing, self-locking gate not less than forty-eight (48) inches from the edge of the pool.

a. The pool must be set and maintained as pursuant to manufacturer's instructions;

b. Any pool less than forty-eight (48) inches in height shall be considered to be at ground level installation and treated as same for protective fencing; or

c. The pool and/or spa and hot tub must be covered by a power safety cover that complies with ASTM F 1346 as listed in Section B106 of the International Residential Code (2000) for one- and two-family dwellings.

ED. An accessory building (commonly referred to as a "shed") measuring no greater than 200 square-feet in size and ten feet in height may be located within a required rear yard or the required side yards behind the front building line of the primary structure, provided that a minimum three-foot setback is maintained between the accessory structure and any pertinent rear or side property line.

FE. An unenclosed covered patio or a covered deck enclosed only by railings may be placed in the rear yard of a residence provided that no part is closer than ten (10) feet to a rear property line. An uncovered deck **constructed 30 inches or higher above grade** may be located within the required rear yard or the required side yard behind the front building line provided that it may not be closer than three feet to a property line. **An uncovered deck constructed lower than 30 inches above grade may be built up to a property line.**

GF. Athletic courts or facility. Athletic courts or facilities, typically associated with expansive single-family residences, take many forms, including those constructed for tennis, full-court basketball, volleyball, etc. Although a specific land use action is not associated with the review of sport courts, a building permit is required, which in turn requires signature by the Planning Official or designee, and shall be evaluated according to the following criteria:

1. Lighting Plan: The applicant shall submit a photometric lighting plan delineating the relationship between exterior lighting, the subject site, and surrounding residential properties within two hundred (200) feet.

2. Storm Water Management: The applicant shall be subject to the rules and requirements of Clackamas County Service District No. 1 (Water Environment Services).

3. Screening and Buffering: For athletic courts or facilities over 2,000 square-feet in size, the applicant shall provide a minimum ten-foot wide landscaped buffer between the athletic court or facility and abutting residential properties. For all athletic courts or facilities, the applicant shall provide a landscape plan that illustrates planting materials, sizes, and overall design (which may include lawn), to include a minimum six-foot tall solid wood fence, cyclone fence with slats, or a solid vegetative screen on property lines surrounding the athletic court or facility that abut residential development.

[...]

Chapter 16.45 SIGNS

16.45.040 Variances.

~~Upon a variance application by an applicant, the Planning Commission may grant a specific variance from the provisions of this section following the standards and procedures set forth in Chapter 16.28 of this Code.~~ **Variances to the standards of this chapter shall be processed in accordance with Chapter 16.71, Variances. Applications for variances shall be submitted at the same time as an application for a sign permit, and the applications shall be reviewed concurrently.**

[...]

16.45.050 Prohibited signs.

It is unlawful for the following signs to be erected or to be maintained except as otherwise provided in this section:

- A. Billboards;
- B. A sign that interferes in any way with a traffic control sign or device or prevents clear and unobstructed view of official traffic control signs or devices or approaching or merging traffic;
- C. A sign that contains, includes or is illuminated by any flashing or revolving, rotating or moving light or moves or has any animated or moving parts. This subsection does not apply to traffic control signs or devices and "readerboard" signs less than twenty-four (24) square feet in size as authorized by this chapter;
- D. A sign with lighting which is not effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled right-of-way of a State highway, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of a motor vehicle or otherwise to interfere with the operations thereof;
- E. A sign in excess of three square feet, located upon a tree, or painted or drawn upon a natural feature;
- F. An obsolete sign;
- G. Portable signs, tent signs, permanent inflatable signs (including "blimp" type signs typically extended from a building roof), permanent streamers, balloons, hulas, flags, banners, pennants, etc., or vehicle mounted signs, excepting traditional holiday decorations or temporary signs pursuant to the provisions of this chapter;
- H. A sign that obstructs free ingress to or egress from any door, window or fire escape, alley, drive or fire lane, or is attached to a fire escape;
- I. A sign erected or maintained on public property or within the public right-of-way without permission of the public body having jurisdiction. This shall include signs placed on utility poles located within public right-of-way;
- J. A sign not able to withstand a wind pressure of twenty (20) pounds per square foot of exposed surface, or is insecurely erected, or is constructed so as to constitute a fire hazard;
- K. A sign not maintained in a safe, neat, clean and attractive condition and in good repair;
- L. Any sign larger than four square feet on an undeveloped lot or parcel of property other than temporary signs as provided by this chapter;

- M. A sign not otherwise in compliance with any provision of this Code, Oregon law or the terms and conditions of any valid sign permit issued under this chapter;
- N. Signs with rotating or moving parts or any portion thereof designed to move unless specifically allowed by the provisions of this chapter;
- O. Electronic display signs or readerboards, including any video display board of television quality in which the rate of change is electronically programmed that exceed twenty-four (24) square feet in size. Electronic readerboards of any size are prohibited in residential zones unless authorized by a conditional use permit;
- P. Signs with exposed lighting or neon tubes on the sign face in residential zones;
- Q. Roof signs;
- R. Off-premises signs **not located in a commercial or industrial zone;**
- S. Signs with light intensity in excess of the standards of the sign industry, as provided by the Oregon Electric Sign Association;
- T. Hazards. No sign, light, electrical cord, streamer, flag, or other apparatus shall be situated or used in a manner which creates a hazard;
- U. ~~Signs attached to, or carried by a person.~~

16.45.060 Signs not requiring a permit.

A. In any commercial or industrial zoning district, the following signs may be placed erected and maintained without a permit, so long as they comply with all applicable provisions of this section and are not illuminated:

- ~~A1. A single, temporary or permanent sign where the display surface area does not exceed two square feet;~~
- ~~B2. Window signs, up to nine square feet, situated on the indoor-side of a window or door in commercial and mixed-use zones;~~
- ~~C3. Signs attached to, or carried by, a person;~~
- ~~D4. Signs required by law or legal action, including but not limited to, signs warning of hazardous or dangerous conditions on a premises and land use application and hearing notice signs;~~
- 5E. Political "yard" signs, up to a maximum size of four square feet, of a temporary nature associated with a specific election. Temporary election signs shall be removed within twelve (12) days of the specific election.**

B. In any residential or institutional zoning district, the following signs may be placed and maintained without a permit, so long as they comply with all applicable provisions of this section and are not illuminated:

- 1. Signs required by law or legal action, including but not limited to, signs warning of hazardous or dangerous conditions on a premises and land use application and hearing notice signs; and,**
- 2. Political "yard" signs, up to a maximum size of four square feet, of a temporary nature associated with a specific election. Temporary election signs shall be removed within twelve (12) days of the specific election.**

16.45.100 Signs in institutional and public use (IPU) zone.

A. Signs Allowed. In the IPU zone the following signs are allowed.

1. Freestanding Signs.

a. Freestanding signs shall be supported by no more than two poles, posts, columns, or similar supports. Guy wires and similar stabilization methods are not permitted.

b. The poles, posts, columns, or similar supports for freestanding pole signs shall be closed to present a round, oval, polygon or similar exterior appearance. Exposed angle-iron supports such as I-beams are not permitted.

c. The poles, posts, columns or similar supports for freestanding pole signs may be covered with a pole-cover as a method of improving the appearance of the support(s).

d. The total width, including any pole-cover, of the poles, posts, columns or similar supports for freestanding pole signs shall be no wider than twenty-five (25) percent of the sign face's width.

e. The poles, posts, columns or similar supports for freestanding pole signs shall be plumb (straight up).

f. No portion of a freestanding pole sign shall extend on or over a building.

g. The surface display area shall not exceed one hundred (100) square feet, with fifty (50) square feet maximum area per sign face.

h. The faces of two-sided pole signs shall be parallel to each other.

i. All required permits shall be obtained prior to placement of sign.

j. One freestanding sign per street frontage is allowed, provided no monument sign exists along the same frontage.

2. Monument Signs.

a. Monument signs shall be erected on grade or set into a hillside. If the monument sign is supported by a pole, the sign shall extend down to within four inches of grade to cover the pole so that no more than four inches of the pole is visible.

b. No more than two sides are allowed.

c. Signs shall not extend any higher than six feet above grade.

d. Signs shall not exceed sixty (60) square feet in area.

e. Only indirect or internal illumination is allowed.

f. Signs shall be placed in accordance with the clear vision area.

g. All required permits shall be obtained prior to placement of sign.

h. One monument sign per street frontage is allowed, provided no freestanding sign exists along the same frontage.

3. Wall Signs.

a. Display surface area shall not exceed two square feet for each lineal foot of the wall on which the sign is erected.

b. One sign per each owned or leased wall is permitted. This shall not exceed four walls of a building.

c. No more than one side is permitted for each sign.

d. Indirect or internal illumination is permitted.

e. All required permits shall be obtained prior to placement of sign.

4. Readerboard Signs.

a. Readerboard signs are allowed in an IPU zone as a part of another sign. The Sign Official may impose conditions of approval regarding the frequency of copy

change, the hours of operation, and the method by which the message is changed in order to assure compliance with the standards of this section and this chapter.

b. Readerboard signs shall not exceed twenty-four (24) square feet in size. The readerboard and associated sign shall not exceed the total allowable sign area for the IPU district.

c. The design and placement of the readerboard and associated sign shall not adversely affect vehicular or pedestrian safety.

d. The readerboard and associated sign shall comply with all other requirements of this chapter.

e. Temporary signs shall not exceed thirty-two (32) square feet.

16.45.110 Signs in mixed-use zones and commercial zones.

A. Signs Allowed. In mixed-use and commercial zones, the following signs are allowed:

1. Wall Signs.

a. Single-story structures.

i. Display surface area shall not exceed two square feet for each lineal foot of the wall on which the sign is erected;

ii. One sign per each owned or leased wall is permitted. This shall not exceed four walls of a building;

iii. No more than one side is permitted for each sign;

iv. Indirect or internal illumination is permitted;

v. All required permits shall be obtained prior to placement of sign.

b. Total signage for multi-story structures containing multiple businesses shall be limited to 10 percent wall coverage. There is no limit on the number of signs allowed if within the total permitted wall coverage limit.

2. Freestanding and monument signs, so long as a permit is first obtained as required by this chapter and the following standards are met:

a. Number. One sign shall be permitted for each street frontage of premises, provided minimum lot frontage of thirty (30) feet is met. No sign shall be permitted on the same frontage where there is a projecting or roof sign. Signs on the same premises but on different frontages shall be separated by a minimum of fifty (50) feet distance.

b. Area.

i. Where the street frontage is less than fifty (50) feet, the maximum display surface area shall not exceed fifty (50) square feet, with twenty-five (25) square feet maximum area per sign face;

ii. Where the street frontage is greater than fifty (50) feet but less than two hundred (200) feet, surface display area shall not exceed one hundred (100) square feet, with fifty (50) square feet maximum area per sign face;

iii. Where the street frontage is two hundred (200) feet or greater, the surface display area shall not exceed two hundred (200) square feet, with a maximum area of one hundred (100) square feet per sign face;

iv. In no case shall any sign have a surface display area in excess of two hundred (200) square feet.

c. Projection. Freestanding signs shall not project over a public right-of-way.

d. Clearance. A minimum clearance of ten (10) feet from grade shall be maintained over pedestrian or vehicular areas, fourteen (14) feet over areas of truck access.

e. Horizontal Dimension. The greatest horizontal dimension shall not exceed twenty (20) feet for any freestanding sign.

f. Height. The height of any freestanding or monument sign shall not exceed ten (10) feet above grade, plus five feet for each two hundred (200) feet, or portion thereof, of street frontage. In no event shall any sign exceed fifteen (15) feet in height.

g. Illumination. Indirect or internal illumination is permitted.

3. Projecting Signs. Projecting signs are allowed so long as a permit is first obtained as required by this chapter and the following standards are met:

a. Number. One projecting sign may be permitted for each business frontage. No projecting sign shall be permitted for the same business frontage where there is a freestanding sign.

b. Area. Sign area shall not exceed sixteen (16) square feet per sign face, with total area of all faces not to exceed thirty-two (32) square feet.

c. Projection. Maximum projection from a building wall shall be four feet. No sign shall project within two feet of the curb line.

d. Vertical Dimension. The greatest vertical dimension of a projecting sign shall not exceed four feet; provided, however, for any reduction in projection, the sign may be increased in height a like distance. The maximum projection above the wall on which the sign is erected shall be one foot, and the visible supporting structure shall be minimized to the greatest extent possible consistent with safe structural support.

e. Clearance. A minimum clearance of eight feet from grade shall be maintained over pedestrian areas, ten (10) feet from grade over vehicular areas and fourteen (14) feet over areas of truck access.

f. Separation. The minimum distance from another projecting sign shall be twenty (20) feet in the same horizontal plane.

g. Projecting Signs on Other Project Structures. Awnings, marquees, canopies, false fronts and wall extensions, safely constructed and approved by the Building Code Official, may extend beyond the limits for projecting signs. Projecting signs on such structure shall not exceed the limits as to number, area, projection, vertical dimension, clearance and separation as provided for any projecting sign. The only exception shall be for those instances in which a projecting structure would prohibit a projecting sign within sight of pedestrians; in these instances, the clearance under the marquee or other permanent structure may be reduced to eight feet.

4. Readerboard Signs.

a. Readerboard signs are allowed in mixed use and commercial zones as a part of another sign or as a stand-alone window sign. The Sign Official may impose conditions of approval regarding the frequency of copy change, the hours of operation, and the method by which the message is changed in order to assure compliance with the standards of this section and this chapter.

b. Readerboard signs that are part of an accompanying sign shall not exceed twenty-four (24) square feet in size. Readerboard signs located within window areas shall not exceed ten (10) square feet in size. The readerboard and associated sign shall not exceed the total allowable sign area for the underlying mixed use or commercial zoning district, a window readerboard sign combined with any other signage shall not exceed the building face signage square-footage allowed by this chapter.

c. The design and placement of the readerboard and any associated sign shall not adversely affect vehicular or pedestrian safety.

d. The readerboard and any associated sign shall comply with all other requirements of this chapter.

~~5. For multiple businesses in a shopping center, multiple businesses sharing common off-street parking facilities, or for multiple businesses with the same property owner, all of which are located on one or more contiguous lots, the maximum number of signs allowed shall be one wall sign per business and one freestanding sign for the entire property. Signs shall be in conformance with standards as set forth above.~~

16.45.115 Temporary signs.

A. Temporary signs may include **board signs, large political signs associated with a specific election, large “for sale” signs,** inflatable signs, banners, flags, balloons, pennants, streamers, etc., subject to the following:

1. Temporary signs shall not be internally or externally illuminated.
2. Temporary signs shall not be located or extend into or over public right-of-way or into the clear vision area with the exception of special event banner signs as defined in this title.
3. Temporary signs shall be maintained and kept neat and clean. Materials shall not be allowed to fade, tear, rip or otherwise become unsightly during the period of installation.
4. Temporary signs shall not be attached to trees, shrubbery, utility poles or like items. They shall not obstruct or obscure primary signs or adjacent premises. They shall not create a traffic hazard because of distractive character to motorists.
5. Temporary signs shall **range in size from greater than two square feet to a size not to exceed thirty-two (32) square feet in size.**
6. Temporary signs on a property being offered for sale shall be removed within thirty (30) days of sale or transfer of possession, whichever occurs first. Temporary election signs shall be removed within twelve (12) days of the election. For all other temporary signs, the Sign Official shall establish a timeframe for placement of each temporary sign approved. Approval periods shall not exceed sixty (60) days in one calendar year. The sign shall be removed at the end of the approval period.
7. All required permits shall be obtained prior to placement of signs.

16.47.010 Property maintenance.

A. Purpose. All properties within the City shall be maintained in a manner which will prevent the existence of hazards and life threatening conditions. Maintenance of properties shall include any vegetation, natural features and structures of any type located on the property.

B. Vegetation.

1. Any trees which are dead, harboring a nuisance, leaning or reclining at an angle which could create a danger if the tree were to fall, is a fire hazard or interferes with utilities or service delivery shall be removed from the property by or at the expense of the property owner.
2. Grass and weeds growing on any property for noncommercial purposes shall not be allowed to grow above a height of ~~eighteen (18)~~ **ten (10)** inches above ground level. Cutting or removal shall be at the owner's expense.
3. Noxious weeds and growth must be removed immediately upon appearance on any property. After official notice from the City, failure to remove such weeds and growth shall result in removal, disposal and spraying of the area by the City, which shall be reimbursed by the property owner. The City shall keep records of such costs and shall send an invoice to the

property owner for such costs incurred. The bill is to be paid immediately upon receipt via registered mail.

[...]

Chapter 16.51 SURFACE WATER MANAGEMENT

16.51.040 Detention facilities.

A. Necessary and required detention facilities shall be designed and constructed where it has been determined that maximum runoff during the design storm will exceed the computed peak discharge from the subject property. Using the following methods of storage computation, requirements for every development shall be determined, regardless of the size of the property:
[...]

B. Application to Governmental Entities. All governmental entities, including public and semi-public corporations, shall be bound and required to comply with all terms and specifications of this section when developing or improving any land within the corporate limits of the City. This applicability shall apply to all state, regional, local and municipal organizations doing work which includes but is not limited to road building, sanitary sewer repair or installation, water system repair or installation and maintenance and storm drainage improvements.

C. City Assumption of Maintenance. The City is authorized to assume the maintenance of detention facilities in connection with the development and/or improvement of land if:

1. All of the requirements of Section 16.50.080 have been fully complied with;
2. The facilities have been inspected and approved by the City after every year of operation;
3. The cash and surety bonds required in Section 16.50.080 have been extended for one year, covering the City's or designated agent's first year of maintenance; and
4. All necessary easements entitling the City or its designated agent to properly maintain the facility have been conveyed to the City.

D. Fencing Requirements for Stormwater Detention Ponds. For detention ponds constructed with side slopes greater than 3:1 or with walls in the pond area, or detention ponds located within 100 feet of an adjacent residential building, fencing shall be required. Minimum five-foot tall black vinyl coated chain-link fencing shall be used where stormwater detention pond fencing is required.

16.61.010 Purpose and applicability of review procedures.

[...]

Table 16.61.010-1 Summary of Approvals by Type of Review Procedure

Approvals*	Review Procedures	Applicable Regulations
Access Permit (public street)	Type I	Chapters 16.41, 16.62, 16.63; Engineering Standards
Annexation (non-expedited)	Type III	Chapter 16.67
Annexation (expedited)	Type IV	Chapter 16.67
Code Interpretation	Type I	Chapter 16.68
Comprehensive Plan Map/Land Use District Map Amendment	Type III/IV	Chapter 16.67, Comprehensive Plan

Approvals*	Review Procedures	Applicable Regulations
Conditional Use Permit	Type III	Chapter 16.64
Design Review—Minor	Type II-DR	Chapter 16.62
Design Review—Major	Type III-DR	Chapter 16.62
Flood Plain Development Permit	Type I	Building Code
Home Occupation Permit		
Class A	Type I	Chapter 16.69.020
Class B	Type III	Chapter 16.69.020
Land Use Review	Type I	Chapter 16.62, Building Code
Lot Line Adjustments and Lot Consolidations, <u>including Re-Plat</u>	Type I	Chapter 16.63
Lot of Record Determination	Type I	Chapter 16.72
Master Planned Development	Type III	Chapter 16.65
Modification to Approval		
Minor	Type I/II	Chapter 16.66
Major	Type II/III	
Environmental Review Permit	Type II	Chapters 16.32, 16.34, and 16.35
Nonconforming Use or Development Confirmation	Type I	Chapter 16.72
Partition	Type II	Chapter 16.63
Planned Unit Development	Type III	Chapter 16.63
<u>Plat or Easement Vacation or Re-Plat</u>	<u>Type I</u>	<u>Chapter 16.63</u>
Sign Permit	Type I	Chapter 16.45
<u>Public Right-Of-Way Vacation</u>	<u>Type III</u>	<u>Chapter 16.63</u>
Subdivision	Type III	Chapter 16.63
Temporary Use Permit	Type I	Section 16.69.010
Text Amendment	Type III/IV	Chapter 16.67
Tree Removal		
Class A	Type I	Section 16.42.050
Class B	Type I	Section 16.42.050
Variance		
Class A	Type I	Section 16.71.030
Class B	Type II	Section 16.71.040
Class C	Type III	Section 16.71.050
* The applicant may be required to obtain approvals from other agencies, such as a road authority or sewer district for some types of approvals. The City notifies agencies of applications that may affect their facilities or services.		

Chapter 16.62 LAND USE REVIEW AND DESIGN REVIEW

16.62.030 Design review.

[...]

B. Time Limits. Approvals shall be void after two years unless substantial construction on the site has begun, as determined by the City. The ~~Planning Commission or~~ Planning Official

or designee respectively may extend an approval for an additional period not to exceed one year, based on the following:

1. No changes are made to the original site design review plan;
2. The applicant can show intent of initiating construction on the site within the one-year extension period; **and**
- ~~3. There have been no changes to the applicable provisions on which the approval was based. If there have been changes to the applicable provisions and the plan does not comply with those changes, then the extension shall not be granted; and~~
- 4-3.** The applicant demonstrates that failure to obtain building permits and substantially begin construction within the two-year approval period was beyond the applicant's control. An application for an extension shall be filed with the applicable fee ~~within thirty (30) days from~~ **prior to** the expiration of the approval. ~~No more than three extensions shall be allowed for each approval.~~

[...]

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

Development shall not commence until the applicant has received all of the appropriate land use and development approvals and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements in accordance with Section 16.50.080 Construction Plan Approval, Bonding and Assurances. Land Use Review and Design Review approvals shall be subject to all of the following standards and limitations.

A. Modifications to Approved Plans and Developments. Minor modifications of an approved plan or existing development, as defined in Chapter 16.66, shall be processed as a Type I procedure and require only land use review. Major modifications, as defined in Chapter 16.66, shall be processed as a Type II-DR or Type III-DR procedure and shall require design review. For information on Type I, Type II-DR and Type III-DR procedures, please refer to Chapter 16.61. For modifications approval criteria, please refer to Chapter 16.66.

B. Approval Period. Land Use Review and Design Review approvals shall be effective for a period of two years from the date of approval. The approval shall lapse if:

1. A public improvement plan or building permit application for the project has not been submitted within two years of approval; or
2. Construction on the site is in violation of the approved plan.

~~C. Extension. The Planning Official shall, upon written request by the applicant, grant a written extension of the approval period not to exceed one year; provided that:~~

- ~~1. No changes are made on the original approved site design review plan;~~
- ~~2. The applicant can show intent of initiating construction on the site within the one-year extension period;~~
- ~~3. There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and~~

~~4. The applicant demonstrates that failure to obtain building permits and substantially begin construction within two years of site design approval was beyond the applicant's control.~~

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

1. A phasing plan shall be submitted with a design review and/or subdivision application.
 2. The Design Review Board or Planning Commission, as applicable, shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than seven years without reapplying for site design review.
 3. Approval of a phased development proposal requires satisfaction of all of the following criteria:
 - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require approval by the City Engineer, Building Official and any applicable service provider. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 16.50.080. A temporary public facility is any facility not constructed to the applicable City or district standard, subject to review by the City Engineer;
 - c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
 - d. An application for phasing may be approved after design review or subdivision approval as a modification to the approved plan, in accordance with the procedures for minor modifications
- [...]

Chapter 16.63 LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS

16.63.040 Preliminary plat approval process.

A. Review of Preliminary Plat. Review of a preliminary plat with two or three lots (partition) shall be processed with a Type II procedure, under Section 16.61.030. Preliminary plats with four or more lots (subdivision) shall be processed with a Type III procedure under Section 16.61.040. All preliminary plats shall be reviewed using approval criteria in Section 16.63.060. An application for subdivision may be reviewed concurrently with an application for a master planned development under Chapter 16.65.

B. Review of Final Plat. Review of a final plat for a subdivision or partition shall be processed using the approval criteria in Section 16.63.080 and do not require a Land Use Review pursuant to ORS 197.015.

C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of two years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within the two-year period.

D. Modifications and Extensions. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 16.66, Modifications. The Planning Official shall, upon written request by the applicant

and payment of the required fee, grant ~~two~~ **three** consecutive written extensions of the approval period not to exceed one year each; provided that:

1. Any changes to the preliminary plat follow the procedures in Chapter 16.66;
2. The applicant has submitted written intent to file a final plat within the one-year extension period;
3. An extension of time will not prevent the lawful development of abutting properties; **and**

~~4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and~~

§ ~~4.~~ **4.** The extension request is made ~~before~~ **prior to the** expiration of the original approved plan.

E. Phased Development.

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be more than seven years without reapplying for preliminary plat approval.

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

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

b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require approval by the City Engineer, Building Official and any applicable service provider. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 16.50.080. A temporary public facility is any facility not constructed to the applicable City or district standard;

c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and

d. The proposed time schedule for phased development approval shall be reviewed concurrently with the preliminary plat application, and the decision may be appealed in the same manner as the preliminary plat.

[...]

16.63.120 Re-platting and vacation of plats.

A.Re-platting and Vacations. Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed.

B.Procedure. All applications for a re-plat or vacation **of a plat** shall be processed in accordance with the procedures and standards for **a plat vacation, street vacation, property line adjustment (including "re-plat")** ~~a subdivision or partition (i.e., the same process used to create the plat shall be used to re-plat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process.~~ (See Chapter 16.61, Types of Review Procedures.) The road authority(ies) shall be notified of all applications for re-plats and street vacations. All street vacations shall also conform to the ORS Chapter 271.

C.Basis for Denial. A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.

D. Recording of Vacations. All approved plat vacations shall be recorded in accordance with Section 16.63.110 and the following procedures:

1. Once recorded, a re-plat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications described on the plat.

E. After Sale of Lots. When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.

F. Street Requirement. Except as prohibited by law (e.g., ORS 92.837, Manufactured Home Park), in approving a right-of-way vacation or re-plat, the City may require dedication of access ways, paths or trails as a condition of the vacation of any public easement or right-of-way, in order to establish or maintain a safe, convenient and direct pedestrian and bicycle circulation system. Such requirements shall be coordinated with the applicable road authority.

16.63.130 Planned unit development.

[...]

I. Preliminary Approval.

1. As found in Section 16.63.060;
2. In considering the preliminary planned unit development proposal, the

Planning Commission shall apply the following additional criteria when making a determination:
[...]

d. Recreational Area. Proposed recreational uses may be passive or active recreational activities. The recreational use shall be approved by the Planning Commission and shall conform with the City's park master plan and transportation system plan. Passive recreational facilities proposed in a natural area are subject to the requirements of the Natural Area (subsection (I)(b)(5)(A) of this section). Active recreational facilities in a recreational area are subject to the criteria of this subsection **and shall not abut arterial roadways. Recreational facilities located near an arterial roadway shall be separated by a minimum distance of 20 feet, to include landscaping per subsection 16.63.130.I.2.d.i and a minimum six-foot tall solid wood fence.** The required landscape plan for a recreational area shall be prepared by a certified professional landscape architect or other qualified professional and shall include:

- i. Planting plans to include a mix of at least three species each of groundcover, shrubs, and trees. Plantings shall not include any plants on the City's nuisance plant list (see Happy Valley Plant List, Appendix A). Plantings shall provide for at least fifty (50) percent groundcover of the site and shall provide for at least twenty (20) percent of the site being planted with a mix of trees and shrubs. Use of native plant species is encouraged;
- ii. A plan for removal of harmful or invasive species, as identified by in the nuisance or prohibited plants sections of the Happy Valley Plant List (Appendix A), on the site detailing specific treatments, timing, and long-term maintenance to rid the site of invasive species. All harmful or invasive species on the site shall be removed prior to dedication of the site to the homeowner's association or the City. The use of herbicides for controlling harmful and invasive species should be minimized. The following best management practices are required where herbicide application is deemed necessary by the professional preparing the landscape plans:

(A) If herbicides, pesticides and/or fertilizers are proposed, an evaluation of application methods, effects on target and nontarget species, and the potential impacts to aquatic and terrestrial systems shall be included in the plan. Consider persistence, soil/water mobility, toxicity and plant uptake when selecting appropriate chemicals,

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

(C) Apply chemicals during calm, dry weather to avoid transport from target areas by wind and/or water. Avoid applications where irrigation water may wash chemicals from target areas,

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

(E) Application shall not occur in the vicinity of wetlands or ponds from January through June to minimize the potential for adverse impacts to amphibians during the breeding and egg development periods;

iii. A description of the recreational use provided and a plan for installing the associated capital improvements to provide the recreational use. Plans shall include facilities for pedestrian access to the use and around the site. All pedestrian connections shall conform to the City's transportation system plan;

iv. Plans for an irrigation and drainage system to serve the site. Timed irrigation systems and drainage systems shall be installed prior to landscaping the site;

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

vi. The applicant shall submit a landscape plan for any proposed detention facility. The landscape plan shall include a mixture of native plants, trees and shrubs suitable to the environment of the facility, with the intention of screening and buffering the facility from surrounding residences and providing shade to the interior of the facility. An irrigation system shall be installed to water plants in the detention facility during the months of June through September.

vii. Open space tracts shall be recorded as tracts on the final plat. For the assurance of permanent open space, the applicant shall record all open space tracts as permanent open space on the final plat.

[...]

16.63.140 Property line adjustments.

A property line adjustment is the modification of lot boundaries, when no lot is created or removed. The application submission and approval process is as follows:

A. Submission Requirements. All applications for property line adjustment shall be made on forms provided by the City and shall include information required for a Type I application, as governed by Section 16.61.020. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions

of driveways and public and private streets within or abutting the subject lots; location of natural resource areas and significant trees; existing fences and walls; and any other information deemed necessary by the Planning Official or designee for ensuring compliance with City codes.

B. Approval Process.

1. Decision-making Process. Property line adjustments shall be reviewed by means of a Type I procedure, as governed by Section 16.61.020, using approval criteria contained in Subsection 16.63.140(C) below. The road authority(ies) shall be notified of lot line adjustments that may affect property access or traffic volumes or operations on their facilities.
2. Time Limit on Approval. The property line adjustment approval shall be effective for a period of one year from the date of approval, during which time it must be recorded.
3. Lapsing of Approval. The property line adjustment approval shall lapse if:
 - a. The property line adjustment is not recorded within the time limit in Section 16.63.140(B)(2);
 - b. The property line adjustment has been improperly recorded with Clackamas County without the satisfactory completion of all conditions attached to the approval; or
 - c. The final recording is a departure from the approved plan.

C. Approval Criteria. The Planning Official or designee shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:

1. Parcel Creation. No additional parcel or lot is created or removed by the lot line adjustment;
2. Lot Standards. All lots and parcels conform to the applicable lot standards of the land use district (Article 16.2) including lot area, dimensions, setbacks, and coverage, and no resulting lot is wholly comprised of a flood hazard area or jurisdictional wetland;
3. Access and Road Authority Standards. All lots and parcels conform to the standards or requirements of Chapter 16.41 Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made even less conforming by the property line adjustment.

4. Any adjustment or removal of a property line or public easement involving a parcel in a recorded partition plat or lot line in a recorded subdivision shall be performed by means of the "re-plat" process specified in ORS 92.180 to 92.190, subject to final review and approval by the Clackamas County Surveyor (see Chapter 16.61, Types of Review Procedures).

D. Recording Property Line Adjustments.

1. Recording. Upon the City's approval of the proposed property line adjustment, the applicant shall record the property line adjustment with Clackamas County within sixty (60) days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.

2. Time Limit. The applicant shall submit a copy of the recorded property line adjustment survey map to the City within fifteen (15) days of recording and prior to the issuance of any building permits on the re-configured lots.

E. Extension. The City shall, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year provided that:

1. No changes are made to the original property line adjustment as approved by the City;
2. The applicant can show intent of recording the approved plan within the one-year extension period;
3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the property line adjustment conflicts with a Code change, the extension shall be denied; and
4. The extension request is made before expiration of the original approved plan.

Chapter 16.69 MISCELLANEOUS PERMITS

16.69.020 Home occupation permits.

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

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 ten (10) days total in a calendar year;
2. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises;
3. Hobbies which do not result in payment to those engaged in such activity;
4. Proven nonconforming home occupations as pursuant to Chapter 16.72 (Nonconforming Uses, Structures and Lots);
5. Residential care homes that **are protected by the federal Fair Housing Act, and** may have characteristics of a Class B home occupation permit are exempted from the Class B process due to state and federal law, and shall be processed as a Class A home occupation permit.

[...]

E. 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 Class A and Class B uses described in this section.

1. Home occupations may be undertaken only by the principal occupant(s) of a residential property or their immediate family member.

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 home occupation and associated storage of materials and products shall not occupy more than fifty (50) percent of the combined residence and accessory structure gross floor area. **Residential care home occupants and their utilization of a home area are not considered part of a home occupation. Office facilities utilized by the residential care home operator are part of the home occupation.** The indoor storage of materials or products shall not exceed the limitations imposed by the provisions of the building, fire, health and housing codes.

F. Class A and B Home Occupations Defined. Home occupations shall be administered as either Class A or Class B uses. A separate home occupation permit and/or fee are required for each property on which a Class B 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, multifamily unit, condominium unit, etc. In addition to the general criteria outlined in subsection E of this section, home occupations shall observe the following additional standards.

1. Class A Home Occupations. The following characteristics of a Class A 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. More than three clients or customers to visit the premises per day for any reason;
- d. Exterior storage of materials.

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

- a. One nonilluminated sign, not exceeding one and one-half 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 p.m. and 8:00 a.m. and shall not generate excessive traffic or monopolize on-street parking (the generation of excessive traffic or monopolization of on-street parking shall be at the sole discretion of the Planning Official or designee);
- d. Storage of materials, goods, and equipment, **including no more than two commercial vehicles associated with the Class B home occupation and utilized for commercial purposes, shall be** which is screened entirely from view by a solid fence **from any adjacent public right-of-way.** Storage shall not exceed **twenty**-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 legal, designated parking spaces outside. ~~No commercially licensed vehicle in excess of three-quarter ton manufacturer'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 one and one-half 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 Class B home occupation that includes these uses shall equal one acre of land, and the total number of animals boarded at any one time shall not exceed twenty-five (25).

Chapter 16.71 VARIANCES

16.71.020 Applicability and application requirements.

A. Exceptions and Modifications versus Variances. A Code standard or approval criterion ("Code section") may be modified without approval of a variance if the applicable Code section expressly allows exceptions or modifications. If the Code section does not expressly provide for exceptions or modifications, then a variance is required to modify that Code section and the provisions of Chapter 16.71 apply. Except that a variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a land use district.

B. Combining Variances With Other Approvals—Permit Approvals by Other Agencies. Variance requests may be combined with and reviewed concurrently by the City approval body with other land use and development applications (e.g., development review, site design review, subdivision, conditional use, etc.), however, some variances may be subject to approval by other permitting agencies, such as ODOT in the case of State Highway access.

C. Types of Variances. There are three types of variances (Class A, B, or C). The type of variance required depends on the extent of the variance request and the discretion involved in the decision-making process. **Regulations described in the following sections of this chapter pertaining to applicability of the type of variance should be considered a guide only. Ultimately, it is at the discretion of the Planning Official to determine whether a variance proposal is processed as a Class A, B, or C.**

D. Application. The variance application shall conform to the requirements for Type I, II, or III applications (Chapter 16.61), as applicable. In addition, the applicant shall provide a narrative or letter explaining the reason for his or her request, alternatives considered, how the stated variance criteria are satisfied, and why the subject standard cannot be met without the variance.

E. Land Divisions. The variance standards of this chapter apply to individual platted and recorded lots only. However, the lot area and dimensions of a single lot may be modified by up to five percent with a Class B variance. The Class C variance procedure may be used to modify a standard for three or fewer lots, including lots yet to be created through a partition process. An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class C variance procedure. Approval of a master planned development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific code section does not otherwise permit exceptions.

[...]

16.71.030 Class A variances.

A. Applicability. The following variances are reviewed using a Type I procedure, as governed by Chapter 16.61, using the approval criteria in subsection B below:

1. Front Yard Setbacks. Up to a ten (10) percent change to the front yard setback standard in the land use district.
2. Interior Setbacks. Up to a ten (10) percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.
3. Lot Coverage. Up to ten (10) percent increase of the maximum lot coverage required in the base zone.
4. Landscape Area. Up to five percent reduction in landscape area (overall area or interior parking lot landscape area).

5. All other land development standards or issues that may generally be addressed by a ten percent benchmark. For variance requests not easily defined by a percentage benchmark, the Planning Official shall determine whether a variance request is eligible for processing as a Class A variance.

B. Approval Criteria. A Class A variance shall be granted if the applicant demonstrates compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;
2. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
3. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each code standard to be modified shall require a separate variance request;
4. An application for a Class A variances is limited to one lot per application;
5. No more than three Class A variances may be approved for one lot or parcel in twelve (12) months.

16.71.040 Class B variances.

A. Applicability Class B variances may be granted in the following areas:

1. Sections within Article 16.2, Land Use Districts, including setbacks; dimensional standards including lot width, depth and coverage; street frontage requirements; structure height;
2. Sections within Article 16.3, Specific Area Plan Districts and Overlay Zones;
3. Sections within Article 16.4, Community Design Standards, including access and circulation, landscaping, street trees, fencing and screening, parking and loading, signs and the Happy Valley Style design standards;
4. Sections within Article 16.5, Public Facilities;
5. Other development standards as specified by the Land Development Ordinance

Code.

B. Procedures. Class B variances are reviewed using a Type II procedure, as governed by Chapter 16.61, using the approval criteria in subsections C through G below. Staff may impose such conditions as are deemed necessary to mitigate any adverse impacts which may result from granting relief.

C. Variance to Development Standards. The Planning Official or designee may grant a Class B variance of up to twenty (20) percent from any dimensional or development review standard except for lot area which shall be limited to five percent for a Class B variance if the applicant demonstrates compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;
2. That the condition requiring the variance has not been intentionally created to circumvent the Land Development ~~Ordinance~~ Code;
3. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property;
4. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the development provisions which are in question;
5. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each Code standard to be modified shall require a separate variance request;
6. In granting the variance, the Planning Official or designee may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this title.

D. Variance to Vehicular Access and Circulation Standards. Where vehicular access and circulation cannot be reasonably designed to conform to the standards of this title within a particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding all of the following:

1. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
2. There are no other alternative access points on the street in question or from another street;
3. The access separation requirements cannot be met;
4. The request is the minimum variance required to provide adequate access;
5. The approved access or access approved with conditions will result in a safe access;
6. The vision clearance requirements of Chapter 16.50 will be met; and
7. Variances for street access deviations shall be subject to review and approval by the roadway authority.

E. Variance to Street Tree Requirements. The City may approve, approve with conditions, or deny a request for a variance to the street tree requirements in Chapter 16.42, after finding the following:

1. Installation of the tree would interfere with existing utility lines, and no substitute tree with a lower canopy is appropriate for the site;
2. The tree would cause visual clearance problems; or
3. There is not adequate space in which to plant a street tree; and
4. The City may require the installation of additional or replacement landscaping elsewhere on the site (e.g., parking lot area trees) to compensate for the street tree variance;

5. Street tree approval or modification of standards within an ODOT or Clackamas County right-of-way may require approval, respectively, by ODOT or Clackamas County.

F. Variance to Parking and Loading Standards.

1. The City may approve variances to the minimum or maximum standards for off-street parking (quantities and dimensions of parking spaces) in Chapter 16.43 upon finding all of the following:

a. The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity, or modified parking dimensions, as demonstrated by a parking analysis or other facts provided by the applicant;

b. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and

c. All other Code standards are met.

2. The City may reduce the number of required bicycle parking spaces pursuant to Chapter 16.71, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.

3. The City may allow a reduction in the amount of vehicle stacking area required in for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.

4. The City may modify the loading area standards if such a reduction is deemed appropriate after analysis of the use, anticipated shipping or delivery traffic generated by the use and alternatives for loading/unloading, such as use of on- or off-street parking areas during non-business hours, provided that traffic is not impeded.

G. Variance to Maximum or Minimum Yard Setbacks to Avoid or Reduce Impacts to Floodplains, Significant Trees, Wetlands, or Other Natural Features. The City may grant a variance to the applicable setback requirements of greater than twenty (20) percent for the purpose of avoiding or reducing impact to floodplains, significant trees, wetlands, or other natural features. Modification of the standard shall not be more than is necessary for the preservation of the nature feature to be protected.

16.71.050 Class C variances.

A. Applicability. Class C variance requests are those that do not conform to the provisions of Sections 16.71.030 and 16.71.040 (Class A and Class B), and that meet the criteria in subsections (B)(1) through (5) below. Class C variances shall be reviewed using a Type III procedure, in accordance with Chapter 16.61:

B. Approval Criteria. The City shall approve, approve with conditions, or deny an application for a variance based on all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;

2. That the condition requiring the variance has not been intentionally created to circumvent the Land Development Ordinance Code;

3. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property;

4. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the development provisions which are in question;
5. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each Code standard to be modified shall require a separate variance request;
6. In granting the variance, the City Administrator or appropriate and designated body or agent may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this title.

III. FINDINGS OF FACT

1. **The following sections of Title 16 of the Happy Valley Municipal Code (DEVELOPMENT CODE) are applicable to this request:**

“16.67.015 Initiation of a plan amendment.

[...]

B. Amendments to the Land Development Code. An amendment to any chapter or section of this title for the purpose of adding or deleting words or subjects, broadening or narrowing scope, providing direction, clarification or improvement of the Development Code may be initiated by any person or persons, including the City itself. See Sections 16.67.020 and 16.67.030 of this chapter.

Staff Response:

The proposed amendments are initiated by city staff. Therefore, this criterion is satisfied.

16.67.020 Legislative amendments.

Legislative amendments are policy decisions made by City Council. Except in the case of expedited annexation, they are reviewed using the Type IV procedure in Section 16.61.050 and shall conform to the Transportation Planning Rule provisions in Section 16.67.060, as applicable.”

Staff Response:

The proposed amendments are legislative in nature, and will require final approval by the City Council. The process utilized for review of the proposed amendments is a Type IV procedure, and the provisions of the Transportation Planning Rule do not apply to any of the proposed amendments. Therefore, this criterion is satisfied.

IV. RECOMMENDATION

The proposed amendments represent more efficient ordinance language that will improve the City's review process and procedures, and are reflective of market supply and demand. Therefore, staff recommends that the City Council approve LDC-05-10 (Administrative Amendments) and as several of the issues discussed within the proposed amendments are of current concern in regard to ongoing code enforcement issues, pass the proposed implementation ordinance as an emergency.

ORDINANCE NO. 406 FINAL TEXT (ADMINISTRATIVE AMENDMENTS)

EXHIBIT "A"

NOVEMBER 17, 2010

COMPREHENSIVE PLAN POLICY:

[...]

Policy 3: Deleted by Ordinance No. 388, May 5, 2009—The City's Comprehensive Plan and Policies shall be available to any property that seeks to annex to within the city limits. Provision of all city services to unincorporated Clackamas County properties are available to property owners that desire annexation, and are provided via the auspices of City Comprehensive Plan Map designations and zoning districts, as well as the provisions of the City's Municipal Code.

MUNICIPAL CODE SECTIONS:

TITLE 16 DEVELOPMENT CODE

Chapter 16.22 RESIDENTIAL LAND USE DISTRICTS

16.22.020 Very low density residential zones.

[...]

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

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

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

Land Use	R-40	R-20	R-15
Other			
<u>Solar energy collection apparatus</u>	<u>P¹</u>	<u>P¹</u>	<u>P¹</u>
<u>Notes:</u>			
Permitted only as an accessory use, subject to applicable building height maximum.			

[...]

16.22.030 Low density residential zones.

[...]

16.22.030 Low density residential zones.

A. Purpose.

1. Residential—Ten Thousand (10,000) Square Feet (R-10). This urban residential district is a means by which the densities are increased to make efficient use of available facilities and services in an environment of single-family dwellings.

Variations in dwelling types and lot sizes should provide for a necessary flexibility in the City which will prevent typical appearances created by the traditional subdivision of land. Standards in this district are strictly urban oriented and are designed to develop and perpetuate urban trends and patterns. The numerical designation R-10 shall be interpreted to mean that the maximum density shall be one primary dwelling unit per ten thousand (10,000) square feet of lot area.

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

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

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

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

Land Use	R-10	R-8.5	R-7
Other			
<u>Solar energy collection apparatus</u>	<u>P²</u>	<u>P²</u>	<u>P²</u>
Notes: ¹ Location: Duplexes and triplexes must be located on a corner lot or adjacent to the intersection of two streets. ² <u>Permitted only as an accessory use, subject to applicable building height maximum.</u>			

[...]

16.22.040 Medium density single-family residential zones.

[...]

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

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

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

Land Use	R-5	MUR-S
Other		
<u>Solar energy collection apparatus</u>	<u>P³</u>	<u>P³</u>
Notes: ¹ Location: Duplexes and triplexes must be located on a corner lot or adjacent to the intersection of two streets. ² Neighborhood commercial uses subject to the provisions of Section 16.44.080. ³ <u>Permitted only as an accessory use, subject to applicable building height maximum.</u>		

[...]

16.22.050 High density residential—Attached.

[...]

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

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

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

Land Use	SFA	MUR-A	VTH
Other			
Solar <u>energy</u> collection apparatus	p ³	p ³	p ³

[...]

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

[...]

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

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

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

Land Use	MUR-M Multifamily	MUR-X Mixed Buildings
Other		
<u>Solar energy collection apparatus</u>	<u>P</u> ³	<u>P</u> ³

NOTES:

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

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

³ Permitted only as an accessory use, subject to applicable building height maximum

[...]

16.23.010 Mixed Use Commercial and Employment Districts.

A. Purpose.

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

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

[...]

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

Standard	MUC	MUE	MUE-NC
Residential density: ¹			
Low density (maximum)	24 du/net acre	24 du/net acre	NA
Low density (minimum)	15 du/net acre ²	15 du/net acre ²	NA
Medium density (maximum)	34 du/net acre	NA	NA
Medium density (minimum)	25 du/net acre ²	NA	NA
High density (maximum)	50 du/net acre	NA	NA
High density (minimum)	35 du/net acre ²	NA	NA
Lot size (minimum)	Variable ³	Variable ³	See 16.23.010(D)(3)
Lot width (minimum)	Variable ³	Variable ³	Variable ³
Lot depth (minimum)	Variable ³	Variable ³	Variable ³
Floor area ratio			See 16.23.010(D)(3)
Nonresidential FAR (minimum)	0.25:1⁴	0.25:14	
Nonresidential FAR (maximum)	5:1	2:1	
FAR for mixed-use building with residential uses (minimum)	0.25:1	0.25:1	
FAR for mixed-use building with residential uses (maximum)	5:1	3:1	
Landscaping (minimum)	Variable ⁵⁴	Variable ⁵⁴	Variable ⁵⁴
Building setbacks (minimum):	Variable ³	Variable ³	Variable ³
Building height (maximum)	65 feet ³	65 feet ³	65 feet ³
NOTES: ¹ Density calculations shall be made pursuant to Section 16.63.020(F). ² Minimum density of eighty (80) percent of each sub-area is required. ³ Building height is measured pursuant to Chapter 16.12, Definitions. Standards are flexible and shall be determined through the master plan process or a design review. ⁴ Must include a shadow plan to establish future development. ⁵ Pursuant to Section 16.42.030, fifteen (15) percent of the net developable area must be usable open space.			

[...]

Site Size and Allowable Floor Area Standards.

a. Dimensional standards for retail development in the Neighborhood Commercial Subdistrict are located in Table 16.23.010-3.

Table 16.23.010-3 Maximum Areas for MUE Neighborhood Commercial Retail Uses ¹

	Street Frontage Arterial ²	Street Frontage Collector ²	Street Frontage Local Street ²
Maximum retail only site area	3 acres	2 acres	1 acre
Maximum retail only building footprint area	10,000 square feet	5,000 square feet	3,000 square feet
Maximum individual retail use area (gross leasable area)	5,000 square feet	5,000 square feet	3,000 square feet
Maximum retail only building floor area ratio (measurement of building footprint area relative to the neighborhood commercial site area)	0.25:1	0.25:1	0.25:1
NOTES: ¹ This table applies standards only for tenants or buildings that are proposed solely for retail use. Mixed use buildings, as defined in subsection 16.23.010(D)(1)(b) are not regulated by this table. ² In case of multiple frontages, use higher classification.			

[...]

Chapter 16.42 LANDSCAPING, STREET TREES, FENCES AND WALLS

16.42.030 Landscaping standards.

[...]

D. Parking Lot Landscaping.

1. Except for a residential development that has landscaped yards, parking facilities shall include landscaping to cover not less than fifteen (15) percent of the area devoted to parking facilities. The landscaping shall be uniformly distributed throughout the parking area and may consist of trees, shrubs, and groundcovers.

2. Screening of all parking areas containing four or more spaces and all parking areas in conjunction with an off-street loading facility shall be required. Where not otherwise specified by district requirement, screening along a public right-of-way **and the parking area perimeter** shall include a minimum ten (10) feet depth of buffer plantings adjacent to the right-of-way **and along the perimeter of the parking area except when the perimeter of the parking area is within a commercial center or part of shared parking area, where a buffer is not required.**

3. When parking in a commercial or industrial district adjoins a residential zoning district, a sight-obscuring screen that is at least eighty (80) percent opaque when viewed horizontally from between two and eight feet above the average ground level shall be required. The screening shall be composed of materials that are an adequate size so as to achieve the required degree of screening within two years after installation.

4. Parking areas shall be divided into bays of not more than eight spaces in parking areas with twenty (20) or more spaces. Between, and at the end of each parking bay, there shall be planters that have a minimum width of five feet and a minimum length of seventeen (17) feet for a single depth bay and thirty-four (34) feet for a double bay. Each planter shall contain one major structural tree and groundcover. Truck parking and loading areas are exempt from this requirement.

[...]

J. Buffer Planting—Parking, Loading and Maneuvering Areas.

1. Buffer plantings are used to reduce building scale, provide transition between contrasting architectural styles, and generally mitigate incompatible or undesirable views. They are used to soften rather than to block viewing. Where required, a mix of plant materials shall be used to achieve the desired buffering effect.

2. Any use which is required to provide off-street parking for five or more vehicles shall provide buffering of the parking areas on all sides which face directly upon and are within one hundred (100) feet of any property line of the subject site. Buffering shall include, in addition to required street trees for the project as a whole, fencing or plantings at the immediate perimeter of the parking area which shall be of sufficient height and density, year around, to obscure sight lines to the parked vehicles and negate the impacts of headlights.

3. Boundary plantings shall be used to buffer these uses from adjacent properties and the public right-of-way. On-site plantings shall be used between parking bays, as well as between parking bays and vehicle maneuvering areas. A balance of low-lying groundcover and shrubs, and vertical shrubs and trees shall be used to buffer the view of these facilities.

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

16.42.050 Tree cutting and preservation.

[...]

C. Type A Permits.

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

- a. The applicant proposes to remove a maximum of three trees;
- b. The property 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 LDC;
- d. The property does not contain trees protected as a condition of approval of development pursuant to the LDC; 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 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 two hundred fifty dollars (\$250.00) per tree. **Mitigation requirements shall not apply to trees removed that are identified by a certified arborist as dead or dying. An arborist report is not required if the Planning Official or designee can easily determine that the tree(s) in question are dead or dying.** All replacement trees shall measure, by caliper method, one and three-quarters inches (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 (C)(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.~~

7. An applicant for a Type A permit is responsible for obtaining all necessary state and federal permits that may, in addition to City approvals, be required for a tree removal proposal. This includes abiding by state and federal wildlife protection laws.

D. Type B Permits.

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

2. Type B permit applications shall contain all information required for a Type A application as provided in subsection C above. In addition, a Type B application shall include:

a. A tree survey prepared by a certified arborist, or other qualified landscape specialist as approved by the City, which describes size, species, health and condition of trees, and a map at a minimum scale of one inch equals one hundred (100) feet, that locates trees on the property. **Tree survey's are not required for dead or dying trees, or for trees located within the development envelope and associated tree impact zone around the development area.** Drainageways, wetlands and surface water features shall also be identified on the map, unless waived by the Planning Official or designee;

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

c. All trees removed pursuant to a Type B permit shall be replaced on a basis of up to three trees replanted for each tree removed, quantity to be determined by the Planning Official or designee. **Mitigation requirements shall not apply to trees removed that are identified by a certified arborist as dead or dying. An arborist report is not required if the Planning Official or designee can easily determine that the tree(s) in question are dead or dying.** For Type B permits, the City may require that replacement trees have shade or erosion control potential or other characteristics comparable to or greater than the removed trees. Replacement trees shall be appropriately chosen for the site from an approved tree species list supplied by the City (see Appendix A), or as approved by a representative of the City, and shall be nursery Grade No. 1 or better. All replacement trees shall be at least one and three-quarter inches (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. Where it is not feasible or desirable to relocate or replace trees on site, relocation or replacement may be made at an approved alternate public property in the City, or the property owner, builder or developer may make financial contribution to the City's "Tree Bank" equal to two hundred fifty dollars (\$250.00) per tree.

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 thirty (30) days, the City shall notify an applicant if the application is deemed complete or not complete.

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.

5. Tree removal from forested lands outside of commercially viable tree farms pursuant to the definition of "tree farm" preceding building construction or land development activities is prohibited. Tree farms and fruit or nut orchards that can demonstrate current commercial growing and harvesting operations shall be excluded from the provisions of this title, except where the removal of trees would create a significant increase in erosion as determined by the City Engineer, in which case a Type A or Type B permit shall be required.

6. An applicant for a Type B permit is responsible for obtaining all necessary state and federal permits that may, in addition to City approvals, be required for a tree removal proposal. This includes abiding by state and federal wildlife protection laws.

[...]

16.42.060 Fencing, walls and screening.

[...]

C. All fencing, walls or screening shall be subject to the following standards and requirements:

1. Side and Rear Setback Areas. In any residential district, a "stand-alone" fence or decorative wall not to exceed six feet in height may be located or maintained within the required interior side or rear yards. For exterior side yards within corner lots, a maximum six-foot tall fence or decorative wall may exist within the exterior side yard to the point of the front building line, or the presence of any site visibility area and/or easement, whichever occurs first. However, a fence which is structurally engineered by determination of the Building Official and receives a building permit may be constructed to a maximum height of eight feet.

2. Front Property Setback Areas. Within any required front yard, a maximum four-foot tall fence or decorative wall may exist within the front yard, unless located within a

site visibility area and/or easement, in which case said fence or decorative wall shall not exceed two and one-half feet in height.

3. In any district, trees, shrubbery, berms, arbors, trellises and similar landscape features are permitted in all required yards provided that on corner lots no object or planting shall obscure vision between the vertical heights of two and one-half feet and eight feet, as measured from the adjoining curb elevation, for the triangular area which has sides extending from the corner of the property in either direction, the same distance as the front yard setback requirement for that district.

4. Height and Opacity. Where landscaping is used for required screening, it shall be at least six feet in height and at least eighty (80) percent opaque, as seen from a perpendicular line of sight, within two years following establishment of the primary use of the site.

5. Chain Link Fencing. A chain link fence with slats shall qualify for screening only if a landscape buffer is also provided in compliance with this section.

6. The height of hedges, fences, walls, and berms shall be measured from the lowest adjoining finished grade, except where used to comply with screening requirements for parking, loading, storage, and similar areas. In these cases, height shall be measured from the finished grade of such improvements. Screening is not permitted within vision clearance areas.

7. Earthen berms up to six feet in height may be used to comply with screening requirements. Slope of berms may not exceed 2:1 and both faces of the slope shall be planted with groundcover, shrubs, and trees.

8. Long expanses of fences and walls shall be designed to prevent visual monotony through use of offsets, changes of materials and textures, or landscaping.

9. Fence height restrictions do not apply to public utility fences, "deer fences" or similar fences constructed of "wire mesh" type products, baseball backstops, or chain link fences enclosing schools and playgrounds.

[...]

Chapter 16.43 PARKING AND LOADING

16.43.030 Automobile parking standards.

[...]

B. Minimum Off-Street Parking Space Requirements and Calculations.

1. Unspecified Requirements. Vehicle and bicycle parking requirements for uses not specified in this chapter may be determined by the Planning Official based upon the requirements for similar specified uses.

2. Tandem parking (where two spaces are directly behind one another) may be counted as two parking spaces.

3. On-street parking within three hundred (300) feet of a use ~~along its property frontage~~ may be counted as part of the minimum spaces required, **provided that the on-street parking is located along the same street frontage as the subject property or properties.**

[...]

Chapter 16.44 SPECIAL STANDARDS FOR CERTAIN USES

16.44.010 Design standards for multifamily housing, single-family attached housing, duplexes and triplexes.

[...]

13. The Planning Official or designee may allow exceptions to these standards without the need to obtain a formal variance pursuant to Chapter 16.71 provided at least one of the following circumstances is met:
 - a. The applicant demonstrates that the physical characteristics of the site or existing structure make compliance impractical (e.g., they include, but are not limited to, steep slopes, wetlands, other bodies of water, trees or other nature features of the site, buildings or other existing development, utility lines and easements, etc.); or
 - b. The applicant demonstrates that the alternative design is exceptional in the quality of detailing, appearance or materials and/or creates a positive unique relationship to other structures, views or open space in a manner that accomplishes the purpose of the Happy Valley Style Design Review described in Chapter 16.46 for nonresidential developments or, for residential developments, the purpose of the design review standards for multifamily and attached single-family developments in Section 16.44.010.
14. A request for exception under this provision may be processed as part of the underlying application or separately as a Design Review II application.

16.44.055 Accessory uses.

An accessory use shall comply with all requirements of a principal use, except as this title specifically allows to the contrary, and shall comply with the following limitations:

~~A. Fence limitations shall be as follows:~~

~~1. No fence constructed or installed on an interior or rear property line shall exceed the height of six feet unless said fence is structurally engineered and receives building permit approval. In such cases, a fence may be constructed to a maximum height of eight feet. Evergreen or shrubbery planting may be maintained on such property lines when the neighbor is agreeable thereto.~~

~~2. A fence located in a required front yard shall not exceed a height of two and one-half feet measured from the curb elevation or required side yard on the street side of a corner lot, forward of the front yard setback, shall not exceed a height of six feet. However, in all scenarios involving inadequate clear vision caused by fence construction on a corner lot, the fence shall either be relocated, or shall be limited to a maximum height of two and one-half feet measured from the curb elevation. Where adequate vision clearance exists at driveways, the Planning Official or designee may set the height of said fence.~~

~~3. Fence height restrictions do not apply to public utility fences or to chain link fences enclosing school and public playgrounds.~~

BA. A greenhouse or hothouse may be maintained accessory to a dwelling only if there are no sales.

~~€B.~~ A garage, accessory storage and workshop building may be maintained accessory to a dwelling.

~~ĐC.~~ An uncovered swimming pool may be located within a required rear yard or side yard behind the rear building line provided it is no closer than five feet to the property line.

1. Any pool forty-eight (48) inches in height above grade level is to be considered its own fence if the following conditions are met:

a. The method of entering the pool is a removable ladder or stair that is moved a safe distance from said pool when the pool is not in use.

b. If a deck or walkway is constructed around aforesaid pool that is over thirty (30) inches above grade, this deck or walkway must be equipped with a guardrail with either vertical or horizontal members that will not permit passage of a nine-inch sphere. If no fence with self-closing and locking gates encloses the yards, one must be installed on the stair or ladder that serves as entry onto the deck or walkway. If more than one entry to deck or walkway is provided, all entries shall have self-closing and locking gates.

c. The pool must be set and maintained as pursuant to manufacturer's instructions.

2. Any pool installed at ground level or below ground level shall be protected against accidental entry by a fence not less than forty-eight (48) inches nor more than eighty-four (84) inches in height with a self-closing, self-locking gate not less than forty-eight (48) inches from the edge of the pool.

a. The pool must be set and maintained as pursuant to manufacturer's instructions;

b. Any pool less than forty-eight (48) inches in height shall be considered to be at ground level installation and treated as same for protective fencing; or

c. The pool and/or spa and hot tub must be covered by a power safety cover that complies with ASTM F 1346 as listed in Section B106 of the International Residential Code (2000) for one- and two-family dwellings.

~~€D.~~ An accessory building (commonly referred to as a "shed") measuring no greater than 200 square-feet in size and ten feet in height may be located within a required rear yard or the required side yards behind the front building line of the primary structure, provided that a minimum three-foot setback is maintained between the accessory structure and any pertinent rear or side property line.

~~FE.~~ An unenclosed covered patio or a covered deck enclosed only by railings may be placed in the rear yard of a residence provided that no part is closer than ten (10) feet to a rear property line. An uncovered deck **constructed 30 inches or higher above grade** may be located within the required rear yard or the required side yard behind the front building line provided that it may not be closer than three feet to a property line. **An uncovered deck constructed lower than 30 inches above grade may be built up to a property line.**

~~GF.~~ Athletic courts or facility. Athletic courts or facilities, typically associated with expansive single-family residences, take many forms, including those constructed for tennis, full-court basketball, volleyball, etc. Although a specific land use action is not associated with the review of sport courts, a building permit is required, which in turn requires signature by the Planning Official or designee, and shall be evaluated according to the following criteria:

1. Lighting Plan: The applicant shall submit a photometric lighting plan delineating the relationship between exterior lighting, the subject site, and surrounding residential properties within two hundred (200) feet.
2. Storm Water Management: The applicant shall be subject to the rules and requirements of Clackamas County Service District No. 1 (Water Environment Services).
3. Screening and Buffering: For athletic courts or facilities over 2,000 square-feet in size, the applicant shall provide a minimum ten-foot wide landscaped buffer between the athletic court or facility and abutting residential properties. For all athletic courts or facilities, the applicant shall provide a landscape plan that illustrates planting materials, sizes, and overall design (which may include lawn), to include a minimum six-foot tall solid wood fence, cyclone fence with slats, or a solid vegetative screen on property lines surrounding the athletic court or facility that abut residential development.

[...]

Chapter 16.45 SIGNS

16.45.040 Variances.

~~Upon a variance application by an applicant, the Planning Commission may grant a specific variance from the provisions of this section following the standards and procedures set forth in Chapter 16.28 of this Code.~~ **Variances to the standards of this chapter shall be processed in accordance with Chapter 16.71, Variances. Applications for variances shall be submitted at the same time as an application for a sign permit, and the applications shall be reviewed concurrently.**

[...]

16.45.050 Prohibited signs.

It is unlawful for the following signs to be erected or to be maintained except as otherwise provided in this section:

- A. Billboards;
- B. A sign that interferes in any way with a traffic control sign or device or prevents clear and unobstructed view of official traffic control signs or devices or approaching or merging traffic;
- C. A sign that contains, includes or is illuminated by any flashing or revolving, rotating or moving light or moves or has any animated or moving parts. This subsection does not apply to traffic control signs or devices and "readerboard" signs less than twenty-four (24) square feet in size as authorized by this chapter;
- D. A sign with lighting which is not effectively shielded as to prevent beams or rays of light from being directed at any portion of the main traveled right-of-way of a State highway, or is of such low intensity or brilliance as not to cause glare or to impair the vision of the driver of a motor vehicle or otherwise to interfere with the operations thereof;
- E. A sign in excess of three square feet, located upon a tree, or painted or drawn upon a natural feature;
- F. An obsolete sign;

- G. Portable signs, tent signs, permanent inflatable signs (including “blimp” type signs typically extended from a building roof), permanent streamers, balloons, hulas, flags, banners, pennants, etc., or vehicle mounted signs, excepting traditional holiday decorations or temporary signs pursuant to the provisions of this chapter;
- H. A sign that obstructs free ingress to or egress from any door, window or fire escape, alley, drive or fire lane, or is attached to a fire escape;
- I. A sign erected or maintained on public property or within the public right-of-way without permission of the public body having jurisdiction. This shall include signs placed on utility poles located within public right-of-way;
- J. A sign not able to withstand a wind pressure of twenty (20) pounds per square foot of exposed surface, or is insecurely erected, or is constructed so as to constitute a fire hazard;
- K. A sign not maintained in a safe, neat, clean and attractive condition and in good repair;
- L. Any sign larger than four square feet on an undeveloped lot or parcel of property other than temporary signs as provided by this chapter;
- M. A sign not otherwise in compliance with any provision of this Code, Oregon law or the terms and conditions of any valid sign permit issued under this chapter;
- N. Signs with rotating or moving parts or any portion thereof designed to move unless specifically allowed by the provisions of this chapter;
- O. Electronic display signs or readerboards, including any video display board of television quality in which the rate of change is electronically programmed that exceed twenty-four (24) square feet in size. Electronic readerboards of any size are prohibited in residential zones unless authorized by a conditional use permit;
- P. Signs with exposed lighting or neon tubes on the sign face in residential zones;
- Q. Roof signs;
- R. Off-premises signs
- S. Signs with light intensity in excess of the standards of the sign industry, as provided by the Oregon Electric Sign Association;
- T. Hazards. No sign, light, electrical cord, streamer, flag, or other apparatus shall be situated or used in a manner which creates a hazard;
- ~~U. Signs attached to, or carried by a person.~~

[...]

16.45.100 Signs in institutional and public use (IPU) zone.

- A. Signs Allowed. In the IPU zone the following signs are allowed.
 - 1. Freestanding Signs.
 - a. Freestanding signs shall be supported by no more than two poles, posts, columns, or similar supports. Guy wires and similar stabilization methods are not permitted.
 - b. The poles, posts, columns, or similar supports for freestanding pole signs shall be closed to present a round, oval, polygon or similar exterior appearance. Exposed angle-iron supports such as I-beams are not permitted.

c. The poles, posts, columns or similar supports for freestanding pole signs may be covered with a pole-cover as a method of improving the appearance of the support(s).

d. The total width, including any pole-cover, of the poles, posts, columns or similar supports for freestanding pole signs shall be no wider than twenty-five (25) percent of the sign face's width.

e. The poles, posts, columns or similar supports for freestanding pole signs shall be plumb (straight up).

f. No portion of a freestanding pole sign shall extend on or over a building.

g. The surface display area shall not exceed one hundred (100) square feet, with fifty (50) square feet maximum area per sign face.

h. The faces of two-sided pole signs shall be parallel to each other.

i. All required permits shall be obtained prior to placement of sign.

j. One freestanding sign per street frontage is allowed, provided no monument sign exists along the same frontage.

2. Monument Signs.

a. Monument signs shall be erected on grade or set into a hillside. If the monument sign is supported by a pole, the sign shall extend down to within four inches of grade to cover the pole so that no more than four inches of the pole is visible.

b. No more than two sides are allowed.

c. Signs shall not extend any higher than six feet above grade.

d. Signs shall not exceed sixty (60) square feet in area.

e. Only indirect or internal illumination is allowed.

f. Signs shall be placed in accordance with the clear vision area.

g. All required permits shall be obtained prior to placement of sign.

h. One monument sign per street frontage is allowed, provided no freestanding sign exists along the same frontage.

3. Wall Signs.

a. Display surface area shall not exceed two square feet for each lineal foot of the wall on which the sign is erected.

b. One sign per each owned or leased wall is permitted. This shall not exceed four walls of a building.

c. No more than one side is permitted for each sign.

d. Indirect or internal illumination is permitted.

e. All required permits shall be obtained prior to placement of sign.

4. Readerboard Signs.

a. Readerboard signs are allowed in an IPU zone as a part of another sign. The Sign Official may impose conditions of approval regarding the frequency of copy change, the hours of operation, and the method by which the message is changed in order to assure compliance with the standards of this section and this chapter.

- b. Readerboard signs shall not exceed twenty-four (24) square feet in size. The readerboard and associated sign shall not exceed the total allowable sign area for the IPU district.
- c. The design and placement of the readerboard and associated sign shall not adversely affect vehicular or pedestrian safety.
- d. The readerboard and associated sign shall comply with all other requirements of this chapter.
- e. Temporary signs shall not exceed thirty-two (32) square feet.

16.45.110 Signs in mixed-use zones and commercial zones.

A. Signs Allowed. In mixed-use and commercial zones, the following signs are allowed:

1. Wall Signs.

a. Single-story structures.

- i. Display surface area shall not exceed two square feet for each lineal foot of the wall on which the sign is erected;
- ii. One sign per each owned or leased wall is permitted. This shall not exceed four walls of a building;
- iii. No more than one side is permitted for each sign;
- iv. Indirect or internal illumination is permitted;
- v. All required permits shall be obtained prior to placement of sign.

b. Total signage for multi-story structures containing multiple businesses shall be limited to 10 percent wall coverage. There is no limit on the number of signs allowed if within the total permitted wall coverage limit.

2. Freestanding and monument signs, so long as a permit is first obtained as required by this chapter and the following standards are met:

a. Number. One sign shall be permitted for each street frontage of premises, provided minimum lot frontage of thirty (30) feet is met. No sign shall be permitted on the same frontage where there is a projecting or roof sign. Signs on the same premises but on different frontages shall be separated by a minimum of fifty (50) feet distance.

b. Area.

- i. Where the street frontage is less than fifty (50) feet, the maximum display surface area shall not exceed fifty (50) square feet, with twenty-five (25) square feet maximum area per sign face;
- ii. Where the street frontage is greater than fifty (50) feet but less than two hundred (200) feet, surface display area shall not exceed one hundred (100) square feet, with fifty (50) square feet maximum area per sign face;
- iii. Where the street frontage is two hundred (200) feet or greater, the surface display area shall not exceed two hundred (200) square feet, with a maximum area of one hundred (100) square feet per sign face;
- iv. In no case shall any sign have a surface display area in excess of two hundred (200) square feet.

c. Projection. Freestanding signs shall not project over a public right-of-way.

d. Clearance. A minimum clearance of ten (10) feet from grade shall be maintained over pedestrian or vehicular areas, fourteen (14) feet over areas of truck access.

e. Horizontal Dimension. The greatest horizontal dimension shall not exceed twenty (20) feet for any freestanding sign.

f. Height. The height of any freestanding or monument sign shall not exceed ten (10) feet above grade, plus five feet for each two hundred (200) feet, or portion thereof, of street frontage. In no event shall any sign exceed fifteen (15) feet in height.

g. Illumination. Indirect or internal illumination is permitted.

3. Projecting Signs. Projecting signs are allowed so long as a permit is first obtained as required by this chapter and the following standards are met:

a. Number. One projecting sign may be permitted for each business frontage. No projecting sign shall be permitted for the same business frontage where there is a freestanding sign.

b. Area. Sign area shall not exceed sixteen (16) square feet per sign face, with total area of all faces not to exceed thirty-two (32) square feet.

c. Projection. Maximum projection from a building wall shall be four feet. No sign shall project within two feet of the curb line.

d. Vertical Dimension. The greatest vertical dimension of a projecting sign shall not exceed four feet; provided, however, for any reduction in projection, the sign may be increased in height a like distance. The maximum projection above the wall on which the sign is erected shall be one foot, and the visible supporting structure shall be minimized to the greatest extent possible consistent with safe structural support.

e. Clearance. A minimum clearance of eight feet from grade shall be maintained over pedestrian areas, ten (10) feet from grade over vehicular areas and fourteen (14) feet over areas of truck access.

f. Separation. The minimum distance from another projecting sign shall be twenty (20) feet in the same horizontal plane.

g. Projecting Signs on Other Project Structures. Awnings, marquees, canopies, false fronts and wall extensions, safely constructed and approved by the Building Code Official, may extend beyond the limits for projecting signs. Projecting signs on such structure shall not exceed the limits as to number, area, projection, vertical dimension, clearance and separation as provided for any projecting sign. The only exception shall be for those instances in which a projecting structure would prohibit a projecting sign within sight of pedestrians; in these instances, the clearance under the marquee or other permanent structure may be reduced to eight feet.

4. Readerboard Signs.

a. Readerboard signs are allowed in mixed use and commercial zones as a part of another sign or as a stand-alone window sign. The Sign Official may impose conditions of approval regarding the frequency of copy change, the hours of operation, and the method by which the message is changed in order to assure compliance with the standards of this section and this chapter.

b. Readerboard signs that are part of an accompanying sign shall not exceed twenty-four (24) square feet in size. Readerboard signs located within window areas shall not exceed ten (10) square feet in size. The readerboard and associated sign shall not

exceed the total allowable sign area for the underlying mixed use or commercial zoning district, a window readerboard sign combined with any other signage shall not exceed the building face signage square-footage allowed by this chapter.

c. The design and placement of the readerboard and any associated sign shall not adversely affect vehicular or pedestrian safety.

d. The readerboard and any associated sign shall comply with all other requirements of this chapter.

~~5. For multiple businesses in a shopping center, multiple businesses sharing common off-street parking facilities, or for multiple businesses with the same property owner, all of which are located on one or more contiguous lots, the maximum number of signs allowed shall be one wall sign per business and one freestanding sign for the entire property. Signs shall be in conformance with standards~~

16.47.010 Property maintenance.

A. Purpose. All properties within the City shall be maintained in a manner which will prevent the existence of hazards and life threatening conditions. Maintenance of properties shall include any vegetation, natural features and structures of any type located on the property.

B. Vegetation.

1. Any trees which are dead, harboring a nuisance, leaning or reclining at an angle which could create a danger if the tree were to fall, is a fire hazard or interferes with utilities or service delivery shall be removed from the property by or at the expense of the property owner.

2. Grass and weeds growing on any property for noncommercial purposes shall not be allowed to grow above a height of ~~eighteen (18)~~ **ten (10)** inches above ground level. Cutting or removal shall be at the owner's expense.

3. Noxious weeds and growth must be removed immediately upon appearance on any property. After official notice from the City, failure to remove such weeds and growth shall result in removal, disposal and spraying of the area by the City, which shall be reimbursed by the property owner. The City shall keep records of such costs and shall send an invoice to the property owner for such costs incurred. The bill is to be paid immediately upon receipt via registered mail.

[...]

Chapter 16.51 SURFACE WATER MANAGEMENT

16.51.040 Detention facilities.

A. Necessary and required detention facilities shall be designed and constructed where it has been determined that maximum runoff during the design storm will exceed the computed peak discharge from the subject property. Using the following methods of storage computation, requirements for every development shall be determined, regardless of the size of the property:

[...]

B. Application to Governmental Entities. All governmental entities, including public and semi-public corporations, shall be bound and required to comply with all terms and specifications of this section when developing or improving any land within the corporate limits of the City. This applicability shall apply to all state, regional, local and municipal organizations doing work which includes but is not limited to road building, sanitary sewer repair or installation, water system repair or installation and maintenance and storm drainage improvements.

C. City Assumption of Maintenance. The City is authorized to assume the maintenance of detention facilities in connection with the development and/or improvement of land if:

1. All of the requirements of Section 16.50.080 have been fully complied with;
2. The facilities have been inspected and approved by the City after every year of operation;
3. The cash and surety bonds required in Section 16.50.080 have been extended for one year, covering the City's or designated agent's first year of maintenance; and
4. All necessary easements entitling the City or its designated agent to properly maintain the facility have been conveyed to the City.

D. Fencing Requirements for Stormwater Detention Ponds. For detention ponds constructed with side slopes greater than 3:1 or with walls in the pond area fencing shall be required. Minimum five-foot tall black vinyl coated chain-link fencing shall be used where stormwater detention pond fencing is required.

16.61.010 Purpose and applicability of review procedures.

[...]

Table 16.61.010-1 Summary of Approvals by Type of Review Procedure

Approvals*	Review Procedures	Applicable Regulations
Access Permit (public street)	Type I	Chapters 16.41, 16.62, 16.63; Engineering Standards
Annexation (non-expedited)	Type III	Chapter 16.67
Annexation (expedited)	Type IV	Chapter 16.67
Code Interpretation	Type I	Chapter 16.68
Comprehensive Plan Map/Land Use District Map Amendment	Type III/IV	Chapter 16.67, Comprehensive Plan
Conditional Use Permit	Type III	Chapter 16.64
Design Review—Minor	Type II-DR	Chapter 16.62
Design Review—Major	Type III-DR	Chapter 16.62
Flood Plain Development Permit	Type I	Building Code
Home Occupation Permit		
Class A	Type I	Chapter 16.69.020
Class B	Type III	Chapter 16.69.020
Land Use Review	Type I	Chapter 16.62, Building Code
Lot Line Adjustments and Lot Consolidations, <u>including Re-Plat</u>	Type I	Chapter 16.63

Approvals*	Review Procedures	Applicable Regulations
Lot of Record Determination	Type I	Chapter 16.72
Master Planned Development	Type III	Chapter 16.65
Modification to Approval		
Minor	Type I/II	Chapter 16.66
Major	Type II/III	
Environmental Review Permit	Type II	Chapters 16.32, 16.34, and 16.35
Nonconforming Use or Development Confirmation	Type I	Chapter 16.72
Partition	Type II	Chapter 16.63
Planned Unit Development	Type III	Chapter 16.63
<u>Plat or Easement Vacation or Re-Plat</u>	<u>Type I</u>	<u>Chapter 16.63</u>
Sign Permit	Type I	Chapter 16.45
<u>Public Right-Of-Way Vacation</u>	<u>Type III</u>	<u>Chapter 16.63</u>
Subdivision	Type III	Chapter 16.63
Temporary Use Permit	Type I	Section 16.69.010
Text Amendment	Type III/IV	Chapter 16.67
Tree Removal		
Class A	Type I	Section 16.42.050
Class B	Type I	Section 16.42.050
Variance		
Class A	Type I	Section 16.71.030
Class B	Type II	Section 16.71.040
Class C	Type III	Section 16.71.050
* The applicant may be required to obtain approvals from other agencies, such as a road authority or sewer district for some types of approvals. The City notifies agencies of applications that may affect their facilities or services.		

Chapter 16.62 LAND USE REVIEW AND DESIGN REVIEW

16.62.030 Design review.

[...]

B. Time Limits. Approvals shall be void after two years unless substantial construction on the site has begun, as determined by the City. The ~~Planning Commission or~~ Planning Official or designee respectively may extend an approval for an additional period not to exceed one year, based on the following:

1. No changes are made to the original site design review plan;
2. The applicant can show intent of initiating construction on the site within the one-year extension period; **and**

~~3.— There have been no changes to the applicable provisions on which the approval was based. If there have been changes to the applicable provisions and the plan does not comply with those changes, then the extension shall not be granted; and~~

~~4.3.~~ The applicant demonstrates that failure to obtain building permits and substantially begin construction within the two-year approval period was beyond the applicant's control. An application for an extension shall be filed with the applicable fee ~~within thirty (30) days from~~ prior to the expiration of the approval. ~~No more than three extensions shall be allowed for each approval.~~

[...]

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

Development shall not commence until the applicant has received all of the appropriate land use and development approvals and building permits. Construction of public improvements shall not commence until the City has approved all required public improvement plans (e.g., utilities, streets, public land dedication, etc.). The City may require the applicant to enter into a development agreement (e.g., for phased developments and developments with required off-site public improvements), and may require bonding or other assurances for improvements in accordance with Section 16.50.080 Construction Plan Approval, Bonding and Assurances. Land Use Review and Design Review approvals shall be subject to all of the following standards and limitations.

A. Modifications to Approved Plans and Developments. Minor modifications of an approved plan or existing development, as defined in Chapter 16.66, shall be processed as a Type I procedure and require only land use review. Major modifications, as defined in Chapter 16.66, shall be processed as a Type II-DR or Type III-DR procedure and shall require design review. For information on Type I, Type II-DR and Type III-DR procedures, please refer to Chapter 16.61. For modifications approval criteria, please refer to Chapter 16.66.

B. Approval Period. Land Use Review and Design Review approvals shall be effective for a period of two years from the date of approval. The approval shall lapse if:

1. A public improvement plan or building permit application for the project has not been submitted within two years of approval; or

2. Construction on the site is in violation of the approved plan.

C. ~~Extension. The Planning Official shall, upon written request by the applicant, grant a written extension of the approval period not to exceed one year; provided that:~~

~~1.— No changes are made on the original approved site design review plan;~~

~~2.— The applicant can show intent of initiating construction on the site within the one-year extension period;~~

~~3.— There have been no changes to the applicable Code provisions on which the approval was based. If there have been changes to the applicable Code provisions and the expired plan does not comply with those changes, then the extension shall not be granted; in this case, a new site design review shall be required; and~~

~~4.— The applicant demonstrates that failure to obtain building permits and substantially begin construction within two years of site design approval was beyond the applicant's control.~~

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

1. A phasing plan shall be submitted with a design review and/or subdivision application.
 2. The Design Review Board or Planning Commission, as applicable, shall approve a time schedule for developing a site in phases, but in no case shall the total time period for all phases be greater than seven years without reapplying for site design review.
 3. Approval of a phased development proposal requires satisfaction of all of the following criteria:
 - a. The public facilities required to serve each phase are constructed in conjunction with or prior to each phase;
 - b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require approval by the City Engineer, Building Official and any applicable service provider. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required public improvements, in accordance with Section 16.50.080. A temporary public facility is any facility not constructed to the applicable City or district standard, subject to review by the City Engineer;
 - c. The phased development shall not result in requiring the City or other property owners to construct public facilities that were required as part of the approved development proposal; and
 - d. An application for phasing may be approved after design review or subdivision approval as a modification to the approved plan, in accordance with the procedures for minor modifications
- [...]

Chapter 16.63 LAND DIVISIONS AND PROPERTY LINE ADJUSTMENTS

16.63.040 Preliminary plat approval process.

A. Review of Preliminary Plat. Review of a preliminary plat with two or three lots (partition) shall be processed with a Type II procedure, under Section 16.61.030. Preliminary plats with four or more lots (subdivision) shall be processed with a Type III procedure under Section 16.61.040. All preliminary plats shall be reviewed using approval criteria in Section 16.63.060. An application for subdivision may be reviewed concurrently with an application for a master planned development under Chapter 16.65.

B. Review of Final Plat. Review of a final plat for a subdivision or partition shall be processed using the approval criteria in Section 16.63.080 and do not require a Land Use Review pursuant to ORS 197.015.

C. Preliminary Plat Approval Period. Preliminary plat approval shall be effective for a period of two years from the date of approval. The preliminary plat shall lapse if a final plat has not been submitted within the two-year period.

D. Modifications and Extensions. The applicant may request changes to the approved preliminary plat or conditions of approval following the procedures and criteria provided in Chapter 16.66, Modifications. The Planning Official shall, upon written request by the applicant

and payment of the required fee, grant ~~two~~ **three** consecutive written extensions of the approval period not to exceed one year each; provided that **the applicant demonstrates that:**

1. Any changes to the preliminary plat follow the procedures in Chapter 16.66;
2. The applicant has submitted written intent to file a final plat within the one-year extension period;

3. An extension of time will not **delay or prevent the extension of infrastructure or easements necessary for abutting or connected developments, and will not delay or prevent the** lawful development of abutting properties; **and**

- ~~4. There have been no changes to the applicable Code provisions on which the approval was based. If such changes have occurred, a new preliminary plat application shall be required; and~~

- ~~5~~ **4.** The extension request is made ~~before~~ **prior to the** expiration of the original approved plan.

E. Phased Development.

1. The City may approve a time schedule for developing a subdivision in phases, but in no case shall the actual construction time period (i.e., for required public improvements, utilities, streets) for any partition or subdivision phase be more than seven years without reapplying for preliminary plat approval.

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

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

- b. The development and occupancy of any phase dependent on the use of temporary public facilities shall require approval by the City Engineer, Building Official and any applicable service provider. Temporary facilities shall be approved only upon City receipt of bonding or other assurances to cover the cost of required permanent public improvements, in accordance with Section 16.50.080. A temporary public facility is any facility not constructed to the applicable City or district standard;

- c. The phased development shall not result in requiring the City or a third party (e.g., owners of lots) to construct public facilities that were required as part of the approved development proposal; and

- d. The proposed time schedule for phased development approval shall be reviewed concurrently with the preliminary plat application, and the decision may be appealed in the same manner as the preliminary plat.

[...]

16.63.120 Re-platting and vacation of plats.

A. Re-platting and Vacations. Any plat or portion thereof may be re-platted or vacated upon receiving an application signed by all of the owners as appearing on the deed.

B. Procedure. All applications for a re-plat or vacation **of a plat** shall be processed in accordance with the procedures and standards for **a plat vacation, street vacation, property line adjustment (including "re-plat")** ~~a subdivision or partition (i.e., the same process used to create the plat shall be used to re-plat or vacate the plat). The same appeal rights provided through the subdivision and partition process shall be afforded to the plat vacation process.~~ (See Chapter 16.61, Types of Review Procedures.) The road

authority(ies) shall be notified of all applications for re-plats and street vacations. All street vacations shall also conform to the ORS Chapter 271.

C. Basis for Denial. A re-plat or vacation application may be denied if it abridges or destroys any public right in any of its public uses, improvements, streets or alleys; or if it fails to meet any applicable criteria.

D. Recording of Vacations. All approved plat vacations shall be recorded in accordance with Section 16.63.110 and the following procedures:

1. Once recorded, a re-plat or vacation shall operate to eliminate the force and effect of the plat prior to vacation; and
2. Vacations shall also divest all public rights in the streets, alleys and public grounds, and all dedications described on the plat.

E. After Sale of Lots. When lots have been sold, the plat may be vacated only in the manner herein, and provided that all of the owners of lots within the platted area consent in writing to the plat vacation.

F. Street Requirement. Except as prohibited by law (e.g., ORS 92.837, Manufactured Home Park), in approving a right-of-way vacation or re-plat, the City may require dedication of access ways, paths or trails as a condition of the vacation of any public easement or right-of-way, in order to establish or maintain a safe, convenient and direct pedestrian and bicycle circulation system. Such requirements shall be coordinated with the applicable road authority.

16.63.130 Planned unit development.

[...]

I. Preliminary Approval.

1. As found in Section 16.63.060;
2. In considering the preliminary planned unit development proposal, the

Planning Commission shall apply the following additional criteria when making a determination:

[...]

d. Recreational Area. Proposed recreational uses may be passive or active recreational activities. The recreational use shall be approved by the Planning Commission and shall conform with the City's park master plan and transportation system plan. Passive recreational facilities proposed in a natural area are subject to the requirements of the Natural Area (subsection (I)(b)(5)(A) of this section). Active recreational facilities in a recreational area are subject to the criteria of this subsection **and shall not abut arterial roadways. Recreational facilities located near an arterial roadway shall be separated by a minimum distance of 20 feet, to include landscaping per subsection 16.63.130.I.2.d.i and a minimum six-foot tall solid wood fence.** The required landscape plan for a recreational area shall be prepared by a certified professional landscape architect or other qualified professional and shall include:

i. Planting plans to include a mix of at least three species each of groundcover, shrubs, and trees. Plantings shall not include any plants on the City's nuisance plant list (see Happy Valley Plant List, Appendix A). Plantings shall provide for at least fifty (50) percent groundcover of the site and shall provide for at least twenty (20) percent of the site being planted with a mix of trees and shrubs. Use of native plant species is encouraged;

ii. A plan for removal of harmful or invasive species, as identified by in the nuisance or prohibited plants sections of the Happy Valley Plant List (Appendix A), on the site detailing specific treatments, timing, and long-term maintenance to rid the site of invasive species. All harmful or invasive species on the site shall be removed prior to dedication of the site to the homeowner's association or the City. The use of herbicides for controlling harmful and invasive species should be minimized. The following best management practices are required where herbicide application is deemed necessary by the professional preparing the landscape plans:

(A) If herbicides, pesticides and/or fertilizers are proposed, an evaluation of application methods, effects on target and nontarget species, and the potential impacts to aquatic and terrestrial systems shall be included in the plan. Consider persistence, soil/water mobility, toxicity and plant uptake when selecting appropriate chemicals,

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

(C) Apply chemicals during calm, dry weather to avoid transport from target areas by wind and/or water. Avoid applications where irrigation water may wash chemicals from target areas,

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

(E) Application shall not occur in the vicinity of wetlands or ponds from January through June to minimize the potential for adverse impacts to amphibians during the breeding and egg development periods;

iii. A description of the recreational use provided and a plan for installing the associated capital improvements to provide the recreational use. Plans shall include facilities for pedestrian access to the use and around the site. All pedestrian connections shall conform to the City's transportation system plan;

iv. Plans for an irrigation and drainage system to serve the site. Timed irrigation systems and drainage systems shall be installed prior to landscaping the site;

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

vi. The applicant shall submit a landscape plan for any proposed detention facility. The landscape plan shall include a mixture of native plants, trees and shrubs suitable to the environment of the facility, with the intention of screening and buffering the

facility from surrounding residences and providing shade to the interior of the facility. An irrigation system shall be installed to water plants in the detention facility during the months of June through September.

vii. Open space tracts shall be recorded as tracts on the final plat.

For the assurance of permanent open space, the applicant shall record all open space tracts as permanent open space on the final plat.

[...]

16.63.140 Property line adjustments.

A property line adjustment is the modification of lot boundaries, when no lot is created or removed. The application submission and approval process is as follows:

A. Submission Requirements. All applications for property line adjustment shall be made on forms provided by the City and shall include information required for a Type I application, as governed by Section 16.61.020. The application shall include a preliminary lot line map drawn to scale identifying all existing and proposed lot lines and dimensions; footprints and dimensions of existing structures (including accessory structures); location and dimensions of driveways and public and private streets within or abutting the subject lots; location of natural resource areas and significant trees; existing fences and walls; and any other information deemed necessary by the Planning Official or designee for ensuring compliance with City codes.

B. Approval Process.

1. Decision-making Process. Property line adjustments shall be reviewed by means of a Type I procedure, as governed by Section 16.61.020, using approval criteria contained in Subsection 16.63.140(C) below. The road authority(ies) shall be notified of lot line adjustments that may affect property access or traffic volumes or operations on their facilities.
2. Time Limit on Approval. The property line adjustment approval shall be effective for a period of one year from the date of approval, during which time it must be recorded.
3. Lapsing of Approval. The property line adjustment approval shall lapse if:
 - a. The property line adjustment is not recorded within the time limit in Section 16.63.140(B)(2);
 - b. The property line adjustment has been improperly recorded with Clackamas County without the satisfactory completion of all conditions attached to the approval; or
 - c. The final recording is a departure from the approved plan.

C. Approval Criteria. The Planning Official or designee shall approve or deny a request for a property line adjustment in writing based on all of the following criteria:

1. Parcel Creation. No additional parcel or lot is created or removed by the lot line adjustment;
2. Lot Standards. All lots and parcels conform to the applicable lot standards of the land use district (Article 16.2) including lot area, dimensions, setbacks, and coverage, and no resulting lot is wholly comprised of a flood hazard area or jurisdictional wetland;

3. Access and Road Authority Standards. All lots and parcels conform to the standards or requirements of Chapter 16.41 Access and Circulation, and all applicable road authority requirements are met. If a lot is nonconforming to any City or road authority standard, it shall not be made even less conforming by the property line adjustment.

4. Any adjustment or removal of a property line or public easement involving a parcel in a recorded partition plat or lot line in a recorded subdivision shall be performed by means of the "re-plat" process specified in ORS 92.180 to 92.190, subject to final review and approval by the Clackamas County Surveyor (see Chapter 16.61, Types of Review Procedures).

D. Recording Property Line Adjustments.

1. Recording. Upon the City's approval of the proposed property line adjustment, the applicant shall record the property line adjustment with Clackamas County within sixty (60) days of approval (or the decision expires), and submit a copy of the recorded survey map to the City, to be filed with the approved application.

2. Time Limit. The applicant shall submit a copy of the recorded property line adjustment survey map to the City within fifteen (15) days of recording and prior to the issuance of any building permits on the re-configured lots.

E. Extension. The City shall, upon written request by the applicant and payment of the required fee, grant a written extension of the approval period not to exceed one year provided that:

1. No changes are made to the original property line adjustment as approved by the City;
2. The applicant can show intent of recording the approved plan within the one-year extension period;
3. There have been no changes in the applicable Code or plan provisions on which the approval was based. In the case where the property line adjustment conflicts with a Code change, the extension shall be denied; and
4. The extension request is made before expiration of the original approved plan.

Chapter 16.69 MISCELLANEOUS PERMITS

16.69.020 Home occupation permits.

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

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 ten (10) days total in a calendar year;
 2. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises;
 3. Hobbies which do not result in payment to those engaged in such activity;
 4. Proven nonconforming home occupations as pursuant to Chapter 16.72 (Nonconforming Uses, Structures and Lots);
 5. Residential care homes that **are protected by the federal Fair Housing Act, and** may have characteristics of a Class B home occupation permit are exempted from the Class B process due to state and federal law, and shall be processed as a Class A home occupation permit.
- [...]

E. 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 Class A and Class B uses described in this section.

1. Home occupations may be undertaken only by the principal occupant(s) of a residential property or their immediate family member.
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 home occupation and associated storage of materials and products shall not occupy more than fifty (50) percent of the combined residence and accessory structure gross floor area. **Residential care home occupants and their utilization of a home area are not considered part of a home occupation. Office facilities utilized by the residential care home operator are part of the home occupation.** The indoor storage of materials or products shall not exceed the limitations imposed by the provisions of the building, fire, health and housing codes.

Chapter 16.71 VARIANCES

16.71.020 Applicability and application requirements.

A. Exceptions and Modifications versus Variances. A Code standard or approval criterion ("Code section") may be modified without approval of a variance if the applicable Code section expressly allows exceptions or modifications. If the Code section does not expressly provide for exceptions or modifications, then a variance is required to modify that Code section and the provisions of Chapter 16.71 apply. Except that a variance shall not be approved that would vary the "permitted uses" or "prohibited uses" of a land use district.

B. Combining Variances With Other Approvals—Permit Approvals by Other Agencies. Variance requests may be combined with and reviewed concurrently by the City approval body with other land use and development applications (e.g., development review, site design review, subdivision, conditional use, etc.), however, some variances may be subject to approval by other permitting agencies, such as ODOT in the case of State Highway access.

C. Types of Variances. There are three types of variances (Class A, B, or C). The type of variance required depends on the extent of the variance request and the discretion involved in the decision-making process. **Regulations described in the following sections of this chapter pertaining to applicability of the type of variance should be considered a guide only. Ultimately, it is at the discretion of the Planning Official to determine whether a variance proposal is processed as a Class A, B, or C.**

D. Application. The variance application shall conform to the requirements for Type I, II, or III applications (Chapter 16.61), as applicable. In addition, the applicant shall provide a narrative or letter explaining the reason for his or her request, alternatives considered, how the stated variance criteria are satisfied, and why the subject standard cannot be met without the variance.

E. Land Divisions. The variance standards of this chapter apply to individual platted and recorded lots only. However, the lot area and dimensions of a single lot may be modified by up to five percent with a Class B variance. The Class C variance procedure may be used to modify a standard for three or fewer lots, including lots yet to be created through a partition process. An applicant who proposes to vary a standard for lots yet to be created through a subdivision process may not utilize the Class C variance procedure. Approval of a master planned development shall be required to vary a standard for lots yet to be created through a subdivision process, where a specific code section does not otherwise permit exceptions.
[...]

16.71.030 Class A variances.

A. Applicability. The following variances are reviewed using a Type I procedure, as governed by Chapter 16.61, using the approval criteria in subsection B below:

1. Front Yard Setbacks. Up to a ten (10) percent change to the front yard setback standard in the land use district.
2. Interior Setbacks. Up to a ten (10) percent reduction of the dimensional standards for the side and rear yard setbacks required in the base land use district.
3. Lot Coverage. Up to ten (10) percent increase of the maximum lot coverage required in the base zone.
4. Landscape Area. Up to five percent reduction in landscape area (overall area or interior parking lot landscape area).

5. All other land development standards or issues that may generally be addressed by a ten percent benchmark. For variance requests not easily defined by a percentage benchmark, the Planning Official shall determine whether a variance request is eligible for processing as a Class A variance.

B. Approval Criteria. A Class A variance shall be granted if the applicant demonstrates compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;

2. The variance does not result in the removal of trees, or it is proposed in order to preserve trees, if trees are present in the development area;
3. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each code standard to be modified shall require a separate variance request;
4. An application for a Class A variances is limited to one lot per application;
5. No more than three Class A variances may be approved for one lot or parcel in twelve (12) months.

16.71.040 Class B variances.

A. Applicability Class B variances may be granted in the following areas:

1. Sections within Article 16.2, Land Use Districts, including setbacks; dimensional standards including lot width, depth and coverage; street frontage requirements; structure height;
2. Sections within Article 16.3, Specific Area Plan Districts and Overlay Zones;
3. Sections within Article 16.4, Community Design Standards, including access and circulation, landscaping, street trees, fencing and screening, parking and loading, signs and the Happy Valley Style design standards;
4. Sections within Article 16.5, Public Facilities;
5. Other development standards as specified by the Land Development

Ordinance Code.

B. Procedures. Class B variances are reviewed using a Type II procedure, as governed by Chapter 16.61, using the approval criteria in subsections C through G below. Staff may impose such conditions as are deemed necessary to mitigate any adverse impacts which may result from granting relief.

C. Variance to Development Standards. The Planning Official or designee may grant a Class B variance of up to twenty (20) percent from any dimensional or development review standard except for lot area which shall be limited to five percent for a Class B variance if the applicant demonstrates compliance with all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;
2. That the condition requiring the variance has not been intentionally created to circumvent the Land Development ~~Ordinance Code~~;
3. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate use or development of adjacent property;
4. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the development provisions which are in question;
5. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each Code standard to be modified shall require a separate variance request;
6. In granting the variance, the Planning Official or designee may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this title.

D. Variance to Vehicular Access and Circulation Standards. Where vehicular access and circulation cannot be reasonably designed to conform to the standards of this title within a

particular parcel, shared access with an adjoining property shall be considered. If shared access in conjunction with another parcel is not feasible, the City may grant a variance to the access requirements after finding all of the following:

1. There is not adequate physical space for shared access, or the owners of abutting properties do not agree to execute a joint access easement;
2. There are no other alternative access points on the street in question or from another street;
3. The access separation requirements cannot be met;
4. The request is the minimum variance required to provide adequate access;
5. The approved access or access approved with conditions will result in a safe access;
6. The vision clearance requirements of Chapter 16.50 will be met; and
7. Variances for street access deviations shall be subject to review and approval by the roadway authority.

E. Variance to Street Tree Requirements. The City may approve, approve with conditions, or deny a request for a variance to the street tree requirements in Chapter 16.42, after finding the following:

1. Installation of the tree would interfere with existing utility lines, and no substitute tree with a lower canopy is appropriate for the site;
2. The tree would cause visual clearance problems; or
3. There is not adequate space in which to plant a street tree; and
4. The City may require the installation of additional or replacement landscaping elsewhere on the site (e.g., parking lot area trees) to compensate for the street tree variance;
5. Street tree approval or modification of standards within an ODOT or Clackamas County right-of-way may require approval, respectively, by ODOT or Clackamas County.

F. Variance to Parking and Loading Standards.

1. The City may approve variances to the minimum or maximum standards for off-street parking (quantities and dimensions of parking spaces) in Chapter 16.43 upon finding all of the following:

a. The individual characteristics of the use at that location require more or less parking than is generally required for a use of this type and intensity, or modified parking dimensions, as demonstrated by a parking analysis or other facts provided by the applicant;

b. The need for additional parking cannot reasonably be met through provision of on-street parking or shared parking with adjacent or nearby uses; and

c. All other Code standards are met.

2. The City may reduce the number of required bicycle parking spaces pursuant to Chapter 16.71, if the applicant can demonstrate that the proposed use by its nature would be reasonably anticipated to generate a lesser need for bicycle parking.

3. The City may allow a reduction in the amount of vehicle stacking area required in for drive-through facilities if such a reduction is deemed appropriate after analysis of the size and location of the development, limited services available and other pertinent factors.

4. The City may modify the loading area standards if such a reduction is deemed appropriate after analysis of the use, anticipated shipping or delivery traffic generated by the use and alternatives for loading/unloading, such as use of on- or off-street parking areas during non-business hours, provided that traffic is not impeded.

G. Variance to Maximum or Minimum Yard Setbacks to Avoid or Reduce Impacts to Floodplains, Significant Trees, Wetlands, or Other Natural Features. The City may grant a variance to the applicable setback requirements of greater than twenty (20) percent for the purpose of avoiding or reducing impact to floodplains, significant trees, wetlands, or other natural features. Modification of the standard shall not be more than is necessary for the preservation of the nature feature to be protected.

16.71.050 Class C variances.

A. Applicability. Class C variance requests are those that do not conform to the provisions of Sections 16.71.030 and 16.71.040 (Class A and Class B), and that meet the criteria in subsections (B)(1) through (5) below. Class C variances shall be reviewed using a Type III procedure, in accordance with Chapter 16.61:

B. Approval Criteria. The City shall approve, approve with conditions, or deny an application for a variance based on all of the following criteria:

1. The variance requested is required due to the lot configuration, or other conditions of the site;
2. That the condition requiring the variance has not been intentionally created to circumvent the Land Development Ordinance ~~Code~~ **Code**;
3. That the variance, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the appropriate use or development of adjacent property;
4. That the variance, if granted, is the minimum variance that will afford relief and is the least modification possible of the development provisions which are in question;
5. The variance will not result in violation(s) of any other adopted ordinance or Code standard; each Code standard to be modified shall require a separate variance request;
6. In granting the variance, the City Administrator or appropriate and designated body or agent may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this title.



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