



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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Salem, OR 97301-2540

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www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

July 10, 2008



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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: City of Happy Valley Plan Amendment
DLCD File Number 002-08

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

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: July 23, 2008

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

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

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

Cc: Gloria Gardiner, DLCD Urban Planning Specialist
Meg Fernekees, DLCD Regional Representative
Amanda Punton, DLCD Natural Resource Specialist
Bill Holmstrom, DLCD Transportation Planner
Doug White, DLCD Community Services Specialist
Michael Walter, City of Happy Valley

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FORM 2 Notice of Adoption

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



Jurisdiction: CITY OF HAPPY VALLEY Local file number: LDO-05-07/CPA-05-07
Date of Adoption: 7/01/08 Date Mailed: 7/02/08
Date original Notice of Proposed Amendment was mailed to DLCD: 1/14/08

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

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

A SERIES OF COMPREHENSIVE PLAN TEXT AMENDMENTS AND NEW TEXT; DEVELOPMENT CODE AMENDMENTS AND NEW TEXT; AND REORGANIZATION EFFORTS IN REGARD TO OUTDATED SECTIONS OF THE COMPREHENSIVE PLAN.

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

SAME

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: 2, 4, 5, 10&14

Was and Exception Adopted? YES NO

DLCD File No.: 002-08 (16646)

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

Forty-five (45) days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

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

CITY OF HAPPY VALLEY, CLACKAMAS COUNTY

Local Contact: MICHAEL WALTER, PLANNING SERVICES MANAGER Phone: (503) 760-3325 Extension: _____

Address: 12915 SE KING ROAD City: HAPPY VALLEY

Zip Code + 4: 97086 - Email Address: michaelw@ci.happy-valley.or.us

ADOPTION SUBMITTAL REQUIREMENTS

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

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:
**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**
2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to maru.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

CITY OF HAPPY VALLEY
ORDINANCE NO. 374

AN ORDINANCE AMENDING THE CITY'S COMPREHENSIVE PLAN POLICIES AND TITLE 2 (ADMINISTRATION AND PERSONNEL); TITLE 15 (BUILDINGS AND CONSTRUCTION); AND, 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 CPA-05-07/LDO-05-07 was a staff, Planning Commission and City Council initiated request to amend the City's Comprehensive Plan Policies and Titles 2, 15 and 16 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 April 22, 2008; and

WHEREAS, the Planning Commission recommended the changes to the Comprehensive Plan Policies and Titles 15 and 16 of the Municipal Code as detailed in the City Council Staff Report dated May 20, 2008; 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 amend the Comprehensive Plan Policies and Titles 2, 15 and 16 of the Municipal Code 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 Planning Commission dated April 22, 2008, and as discussed and amended at the regular meeting of the City Council on June 17, 2008; and

WHEREAS, the Council deems it in the public interest to declare an emergency so that this ordinance take effect as specified below, prior to the expiration of the 30-day period specified in the City Charter, so that the proposed Comprehensive Plan Policies and Titles 2, 15 and 16 amendments may be in place for evaluation of any relevant land development applications.

NOW, THEREFORE, based on the foregoing,

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

Section 1. The City of Happy Valley declares that the Comprehensive Plan Policies; Title 2; Title 15; and, Title 16 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 Planning Commission dated April 22, 2008 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 July 1, 2008.

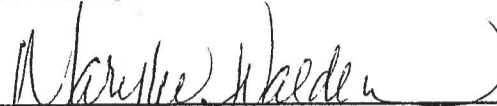
PASSED AND APPROVED THIS 1st day of July, 2008

CITY OF HAPPY VALLEY



Mayor Rob Wheeler

ATTEST:



Marylee Walden, City Recorder

Staff Report to the City Council

**Comprehensive Plan Policy and Municipal Code Text Amendments
File No. LDO-05-07
(Administrative Amendments)**

May 20, 2008

I. GENERAL INFORMATION

Applicant: City of Happy Valley

Property Owners: Citywide

Development Dist.: All applicable zones

Proposal: Amend sections of the City's Comprehensive Plan Policies and Titles 2 (Administration and Personnel), 15 (Buildings and Construction) and 16 (Development Code) of the Municipal Code, including proposed policies regarding flood hazard mitigation, tree mitigation, septic systems, retaining walls and a variety of organizational structure and "housekeeping" amendments.

Discussion: The proposed amendments are City-initiated text amendments that represent suggested changes (via the Planning Commission, City Council, senior staff, property owners and outside agencies) in regard to the policy issues and language amendments detailed above. For further discussion, please see the Staff Report and Exhibits to the Planning Commission dated April 22, 2008 (Attachment "A").

Staff notes that two significant discussion items (and separate votes) occurred during the Planning Commission hearing. In regard to the Comprehensive Plan Policies and

Development Code regulations that govern tree mitigation and evaluation on lands that cut trees prior to a subdivision or PUD application in the City (tree removal occurred in the County), the Planning Commission discussed a temporal limitation (a five-year period has been incorporated within the Amended Staff Report language), but still, voted 3-3 in regard to inclusion of this language in the recommendation to the City Council, with Chairman Rob Klever, Vice-Chair Tom Ellis and Commissioner Eric Rouse voting against, and Commissioners Janelle Brannan, Ken Koblitz and Michael Morrow voting in favor of the language (as amended). In regard to the Comprehensive Plan Policies and Development Code regulations addressing the prohibition of septic system development for new Parcels or Lots, the Planning Commission had no recommendation on amending the proposed language, but voted 4-2 in favor of including this language in the recommendation to the City Council, with Chairman Klever and Commissioners Brannan, Koblitz and Morrow voting in favor, and Vice-Chair Ellis and Commissioner Rouse voting against.

Conclusion and Recommendation:

The Planning Commission held a Public Hearing on April 22, 2008, and recommended that the City Council endorse the proposed amendments (as amended) based on the Findings of Fact within the Staff Report to the Planning Commission.

Attachments:

- A. Staff Report to the Planning Commission dated April 22, 2008.

II. PROPOSED AMENDMENTS (AS AMENDED PER PLANNING COMMISSION DISCUSSION)

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

DRAFT

Proposed Amendments to the Comprehensive Plan

[...]

Goal 5 – To conserve and protect natural and scenic resources.

Policy 16: Manage wooded areas within the City through **the annexation and land division** P.U.D. processes, ~~the Design Review process for subdivision and partitioning activities and through the City's tree removal requirements. Cutting Ordinance (Section 6.09 of the Land Development Ordinance).~~ **The City shall encourage tree retention prior to development by requiring that lands annexed within the city limits, but which have not filed for land division or site design review, are not eligible to receive tree removal permits except for the removal of hazard trees or the harvest of commercial trees, including nursery stock, Christmas trees, etc., but exclusive of generally forested lands. An exception exists for land currently zoned Exclusive Farm Use (EFU) within Clackamas County, which is currently in a state or county tax deferral program for timber production. Said lands, subsequently annexed into the city, shall be treated as a "tree farm" for purposes of this section for so long as the deferrals remain in effect.**

In order to further protect natural and scenic resources, the City of Happy Valley shall coordinate with the regional government (Metro) and various state and federal agencies to ensure that current natural resource regulations and requirements are codified within the City's Development Code. In addition, for lands previously located within unincorporated Clackamas County that have annexed to the City of Happy Valley – mass tree removal on said lands prior to annexation that has occurred within a previous five-year period from submittal of a complete

land use application, shall result in an assessment of, and mitigation for removed trees in conjunction with the land division or site design review process.

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

[...]

16.20.090 Tree cutting and preservation.

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

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

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

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

"City manager" means the city manager or the city manager's designee, except where the context expressly requires otherwise.

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

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

"Forest canopy" means areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60 percent or greater crown closure.

"Land Development Code" or "LDC" means Title 16 of the city's municipal code.

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

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

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

protected. The minimum distance from the center of a tree to the disturbance line shall be one foot of radius per inch of diameter at breast height (dbh), as measured four and one-half (4.5) feet above the uphill side of the tree. Within these parameters, no more than thirty-three (33) percent of the area may be disturbed, though with healthy vigorous trees, up to fifty (50) percent of the area may be disturbed if supported by a certified arborist.

"Person" means any individual or legal entity.

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

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

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

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

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

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

"Volume removal" means the removal of twenty-five (25) percent or more of the trees from a property at any one time, when the number of trees upon such property

totals sixteen (16) or more.

C. Tree Removal Permits.

1. No person shall remove a tree, as defined in this section, without first obtaining a tree removal permit from the city. Permits shall be either a Type A permit or a Type B permit.

2. All tree removal permit fees shall be determined by resolution of the city council.

3. The city may impose additional conditions in writing upon approval of a Type A or B tree removal application such as the time and nature of the removal, mitigation measures, erosion control or other reasonable conditions.

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

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

D. Type A Permits.

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

a. The applicant proposes to remove a maximum of three trees;

b. The property is intended for, or occupied by, a single-family dwelling;

c. The property is exclusively used for single-family residential uses, with or without accessory uses permitted under the 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. 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 (D)(1)(a) of this section may be made by a representative of the city for trees that are located within the building envelope of a proposed structure.
 - E. Type B Permits.
 1. Type B permits are required for all circumstances where the criteria for a Type A permit are not met.
 2. Type B permit applications shall contain all information required for a Type A application as provided in Section 16.20.090(D) above. In addition, a Type B application shall include:

a. A tree survey prepared by a certified arborist, or other qualified landscape specialist as approved by the city, which describes size, species, health and condition of trees, and a map at a minimum scale of one inch equals one hundred (100) feet, that locates trees on the property. Drainage ways, wetlands and surface water features shall also be identified on the map, unless waived by the community development director;

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

c. All trees removed pursuant to a Type B permit ~~may~~ **shall** be replaced on a basis of up to three trees replanted for each tree removed, quantity to be determined by the community development director (or designee). For Type B permits, the city may require that replacement trees have shade or erosion control potential or other characteristics comparable to or greater than the removed trees. Replacement trees shall be appropriately chosen for the site from an approved tree species list supplied by the city, or as approved by a representative of the city, and shall be nursery Grade No. 1 or better. All replacement trees shall be at least one and three-quarters 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 shall 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 ~~seven working~~ **30** days, the city shall notify an applicant if the application is deemed complete or not complete. ~~Within twenty-one (21) working days of the submission of a complete or completed Type B application, the city shall approve or deny the application;~~

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

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

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

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

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

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

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

5. Tree removal from forested lands outside of commercially viable tree farms per the definition for "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.

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

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

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

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

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

- i. Excavation in the top twenty-four (24) inches of the soil in the critical root zone area should begin at the excavation line closest to the tree;
- ii. Excavation is to occur with a hand shovel or a backhoe accompanied by a person with a shovel, pruning shears and a pruning saw;
- iii. When shoveling, all roots one-inch diameter or larger shall be pruned at the excavation line. When a backhoe is utilized, the operator starts the cut at the excavation line and if encountering roots or resistance, has the person with the shovel/shears/saw prune the roots larger than one-inch diameter;
- iv. Backhoes are to remain off of the roots to be saved at all times; and
- v. All excavation work within the optimal tree protection zone (outside of the fenced protection area) shall be accomplished under the supervision of a certified arborist.

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

3. Individual lots that are created by construction of a subdivision, PUD, land partition, or nonresidential construction shall be subject to a separate Type A or Type B permit for the removal of trees from such individual lot beyond those removed pursuant to the subdivision, PUD, land partition, or nonresidential tree removal permit as described in subsection (F)(2) of this section. These "secondary" Type A or B permits shall be separate from the original preliminary tree removal plan included with the development application and final tree removal plan submitted in conjunction with construction plans. The individual lot owner, occupant or agent will be responsible for obtaining a permit for the removal of any trees from a lot created by a final plat.

Removal of trees outside of the areas approved as part of the original subdivision, planned unit development, partition, or nonresidential tree removal plan shall be permitted only upon demonstration by a certified arborist that retention of trees within these areas represents a significant hazard to public health, safety and welfare, including potential damage to structures, or maintains a "view corridor." Review and approval of the arborist report shall be the responsibility of the community development director and city engineer (or designees).

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

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

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

H. Creation and Preservation of View Corridors.

1. Trees that exist within an existing lot of record, parcel or lot that are not part of a preliminary subdivision or PUD may be removed for the creation or preservation of view corridors in the city. Applications to remove trees for the creation or preservation of view corridors shall be made upon forms prescribed by the city. Application type shall be dependent upon whether the applicant meets Type A or Type B permit criteria, as stated in subsections (D) and (E) of this section. In such circumstances, the community development director or designee may waive certain submittal requirements, including the necessary arborist's report.

I. Mitigation of Tree Removal within Annexation Areas.

1. Previously unincorporated areas within Clackamas County that have annexed within the City of Happy Valley and have caused significant removal (greater than 50 percent) of the "forest canopy" (part of a contiguous grove of trees of one acre or larger in area with approximately 60 percent or greater crown closure) that are not part of a "tree farm" per City definition, since 2003, shall be evaluated at the time of land division or site design review application for past tree removal. For discernible mass tree removal by remaining stumps, logging permit records, survey data, or any other means authorized by the Community Development Director or designee that has occurred within a previous five-year period from submittal of a complete land use application, tree mitigation at a ratio of 2:1 shall be required. If on or off-site tree mitigation efforts are not accomplished per the auspices of this chapter, the applicant may make payment to the City's Tree Bank in-lieu of tree planting mitigation.

FILE NO. CPA-05-07/LDO-05-07
(ADMINISTRATIVE AMENDMENTS – FINAL TEXT)

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

Amendments to the Comprehensive Plan

- Policy 1: The Citizen's Advisory Committee shall be an ongoing part of the City government and operations in matters of land planning and other aspects of community development, including review and, if necessary, revision of the Comprehensive Plan every two years.
- Policy 2: The plan and all of its elements and implementing documents shall be opened for amendments that consider compliance with the Goals, Objectives and Plans of the Metropolitan Service District. This procedure shall occur every two years and may be so amended or revised annually if deemed necessary by the City Council. Amendment and revision for compliance with regional goals, objectives and plans should be consistent with a schedule for reopening of local plans which has been approved by the Land Conservation and Development Commission (LCDC).
- Goal #14 – To provide for an orderly and efficient transition from rural to urban land use.*
- Policy 3: To provide for the orderly and timely conversion of land to urban uses in accordance with the Revised Buildable Lands Inventory, the available base information and the Composite Development Suitability Analysis.
- Policy 4: To insure orderly development in the City of Happy Valley through formulation of growth management policies and guidelines which will determine that development can occur only when adequate levels of services and facilities are or will be available.
- Policy 5: To encourage controlled development while maintaining and enhancing the physical resources which make Happy Valley a desirable place to live.
- Policy 6: To assure that the development of properties is commensurate with the character and physical limitations of the land in the Happy Valley area as determined by the available base information and the Composite Development Suitability analysis.
- Policy 7: To coordinate with the Metropolitan Service District (Metro) on any proposed changes or adjustments of the Urban Growth Boundary in the immediate vicinity of the City.

EXHIBIT # "A"

Policy 8: To assume proportionate responsibility for development within the City of Happy Valley consistent with projected population for the City.

Goal 7 – To protect life and property from natural disasters and hazards.

Policy 9: Recognize the potential liability of the City if land with known hazards which endangers life or property is allowed to be developed.

Policy 10: Prohibit development in identified natural drainage-ways, floodplains and wetlands. Development in these areas will be limited to open space, recreation or other appropriate uses which minimize the potential loss of life or other property. Ordinances will be written to comply with federal and state regulations.

Policy 11: Dedication of lands to the City within natural drainage channels and floodplains may be required as a condition for development near the channel, or to meet the needs for community recreation and open space.

Policy 12: Modifications to the natural drainage channels including clearing, filling, diking or the construction of dams or levees shall be done in accordance with **the City's Land Development Code Section 6.18 (Surface Water Run-Off and Detention)** of the Land Development Ordinance.

Policy 13: Development which increases runoff and erosion, or which has the potential for undermining downhill development through significant increases in runoff will be restricted.

Policy 14: The allowed intensity of development will be correlated with the degree of natural hazard. When slopes are over 20% gradient, the intensity of development may exceed that provided by the RSD-1 overlay district only at the discretion of the City.

Policy 15: Engineering studies by private developers, the City and other government agencies for sites proposed for development within areas of suspected or known hazards and compliance with appropriate chapters of the adopted Uniform Building Code and **applicable sections** of the Happy Valley Land Development **Code Ordinance**, are required.

Goal 5 –To conserve and protect natural and scenic resources.

Policy 16: Manage wooded areas within the City through **the annexation and land division** P.U.D. process, ~~the Design Review process for subdivision and partitioning activities~~ and through the City's **tree removal requirements**. ~~Cutting Ordinance (Section 6.09 of the Land Development Ordinance).~~ **The City shall encourage tree retention prior to development by requiring that lands annexed within the city**

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limits, but which have not filed for land division or site design review, are not eligible to receive tree removal permits except for the removal of hazard trees or the harvest of commercial trees, including nursery stock, Christmas trees, etc., but exclusive of generally forested lands. An exception exists for land currently zoned Exclusive Farm Use (EFU) within Clackamas County, which is currently in a state or county tax deferral program for timber production. Said lands, subsequently annexed into the city, shall be treated as a “tree farm” for purposes of this section for so long as the deferrals remain in effect.

In order to further protect natural and scenic resources, the City of Happy Valley shall coordinate with the regional government (Metro) and various state and federal agencies to ensure that current natural resource regulations and requirements are codified within the City’s Development Code. In addition, for lands previously located within unincorporated Clackamas County that have annexed to the City of Happy Valley – mass tree removal on said lands prior to annexation shall result in an assessment of, and mitigation for removed trees in conjunction with the land division or site design review process.

- Policy 17: No wetlands have been identified within the present City boundary. Future annexations may encompass wetlands and will require management to preserve the integrity of the wetland area.
- Policy 18: Revise existing road standards to reflect narrower width in resource areas and on steep slopes.
- Policy 19: Minimize the number and width of utility rights-of-way through resource areas. Establish utility alignments sympathetic to the natural form of the resource and topographic contours.
- Policy 20: Inventory the location, quality and quantity of open space, scenic areas and historic sites to be managed in the development process.
- Policy 21: Maintain relationship of open space to permitted development in order to preserve the character of the natural setting and to provide for recreation and visual relief from development.
- Policy 22: Encourage multiple use of open space, provided the uses are compatible. Enhance the value to the public of abutting or neighboring parks, forest, wildlife preserves or other permanent open space.
- Policy 23: Protect any identified significant historic resources from inappropriate development.

- Policy 24: Avoid disposition of publicly owned land and rights-of-way before an evaluation of their merit as public open space.
- Policy 25: Maintain public views of Happy Valley from such higher elevation locations as road rights-of-way and public parks.
- Policy 26: Require provision of open space in all new planned unit developments (P.U.D.'s) and subdivisions over a size which is established by a revised development ordinance.
- Policy 27: Discourage artificial and unnatural features including but not limited to signs and billboards.
- Policy 28: Conserve the area's unique natural resources through their inclusion in the overall Land Use Plan in a manner which considers surrounding uses and provides a continuity of open space character and natural features, throughout the City.
- Policy 29: Land outside the buildable area as identified by the Revised Buildable Lands Inventory should be developed only if the land is not within a resource area as identified by the City's resource inventory. Non-resource land areas outside the buildable area may be given a land use designation which will permit limited levels of development. The City's resource inventory is part of the background information assembled for use in the planning process.
- Policy 30: Where a determination has been made which will permit development on resource lands outside of the identified buildable area of the City, the conflict must be resolved and the final course of action justified through an "ESEE" (Environment, Social, Economic and Energy) analysis provided by the applicant, property owners, or developer and reviewed by the City.

Goal 6 – To maintain and improve the quality of the air, water and land resources in Happy Valley.

- Policy 31: Maintain mandatory air and water quality standards of Federal and State Statutes, and comply with applicable portions of the State Water Quality management Plan OAR 340, Division 41.
- Policy 32: ~~Evaluate soils prior to designation of areas for septic tank systems.~~
- Deleted by Ordinance #374, July 1, 2008
- Policy 33: Approve sewage disposal or sewer system hook-ups by appropriate agency and/or comply with subsurface Sewage Disposal Rules OAR 340,

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division 71, 74 and 75, ORS 468.020, 468.035 and ORS 454.615 et. Seq.
for replacement septic systems on existing lots of record.

- Policy 34: Comply with plan review requirements of the Oregon Department of Environmental Quality for extension of sewer systems. (ORS 468.742).
- Policy 35: Maintain riparian vegetation and avoid degradation of natural features adjacent to drainage channels and conservation easements to minimize runoff and erosion affecting water quality.
- Policy 36: Require review by the City of Happy Valley of plans prepared by State and county agencies which could affect the air, water and land resources of the City.
- Policy 37: Comply with policies relevant to this goal outlined under LCDC Goals 5, 7 and 11.
- Policy 38: Comply with noise control standards contained in State Statues ORS 467.010 and OAR 340-35-005 through 35-100.
- Policy 39: Require paving or oiling of roads where dust levels are deemed to represent an unacceptable increase in the degradation of air quality within the designated Air Quality Maintenance Area.
- Policy 40: Maintain acceptable noise exposure levels as identified by the Department of Environmental Quality on properties adjacent to heavily traveled arterials and steep streets, through development of specific ordinance requirements.
- Policy 41: Areas of the City which have exhibited a documented predominance of failing septic systems should be connected to the nearest feasible existing sanitary sewer at the soonest possible time. The balance of the City will be serviced in accordance with the City's Facilities Plan and Capital Improvements Plan.

Goal #10 – To provide for the housing needs of the citizens of the State.

- Policy 42: To increase the supply of housing to allow for population growth and to provide for the housing needs of a variety of citizens of Happy Valley.
- Policy 43: To develop housing in areas in areas that reinforce and facilitate orderly and compatible community development.
- Policy 44: To provide a variety of lot sizes, a diversity of housing types including single family attached (townhouses) duplexes, senior housing and multiple

family and range of prices to attract a variety of household sizes and incomes to Happy Valley.

Goal #2 – To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

- Policy 45: Medium densities shall be promoted through the implementation of the R-5 and SFA districts, with design standards where necessary, to reduce energy consumption, facilities and services costs and urban sprawl.
- Policy 46: The City shall provide a range of housing that includes land use districts that allow senior housing, assisted living and a range of multi-family housing products. This range improves housing choices for the elderly, young professionals, single households, families with children, and other household types.
- Policy 47: Medium and high density housing (R-5, SFA and MUR districts) can provide a compatible transition between high intensity uses such as Community or General Commercial Districts and lower intensity uses such as R-7, R-8.5, R-10, R-15 and R-40 Residential Districts.
- Policy 48: The Land Development Ordinance Code will be revised to comply with the Comprehensive Plan to allow for changes over time as the City goals and policies change.

LAND USE ELEMENT POLICIES

- Policy 45 49: To ensure orderly development in the City of Happy Valley
- Policy 47 50: To locate land uses so as to take advantage of existing systems and physical features, to minimize development cost and to achieve compatibility and to avoid conflicts between adjoining uses.
- Policy 48-51: Residential Districts
The following new residential land use districts were considered and adopted in 2005 in order to accommodate a range of housing needs in Happy Valley.
- Policy 51A: Residential 5,000 square feet (R-5):
The purpose of the R-5 is to provide a development district that will allow single family (attached and detached) as well as duplexes, triplexes and very limited neighborhood commercial uses within the city. Sanitary sewer and water are the most essential of urban services, but all Level 1 services and facilities are necessary and required for development at full density. Density in the R-5 is not to exceed one unit for each five

thousand (5,000) square feet per dwelling-and there is an average lot size of 5,000 square feet.

Policy 51B: Single Family Attached (SFA):
The purpose of the SFA district is to promote the livability, stability and improvement of Happy Valley's existing and new neighborhoods and to provide opportunities for a variety of medium density residential housing types, with a density range of 10 to 15 dwelling units per acre. SFA also allows for single family attached dwellings, duplex and triplexes, as well as limited neighborhood commercial uses.

Policy 51C: R-5 and SFA districts:
The most appropriate location for the new R-5 and SFA residential districts is in areas of Happy Valley annexed after the end of 2004. However, existing properties may be re-zoned to R-5 or SFA when the following compatibility requirements are met:

- 1) The size of the property to be re-zoned is at least two (2) acres.

Policy 51D: R-40 district:
The purpose of maintaining the R-40 zone is to be consistent with the Damascus/Boring Concept Plan. Generally, it is no longer appropriate for Happy Valley because this lot size discourages efficient development patterns. The R-40 district may only be applied in newly annexed rural areas in order to protect natural resources, steep slopes and hilltops from more intense development patterns.

Policy 51E: R-20, R-15, R10 districts:
The R-20-, R-15, and R-10 may be applied in newly annexed areas of Happy Valley that have significant forest cover, significant natural resources to be protected, or where some Goal 5 resource protection is desired but not required.

Policy 51F: R-8.5 district:
The R-8.5 may be applied throughout Happy Valley as a transition between R-40 through R-10 districts and the R-7, R-5 or SFA districts.

Goal #3 – To preserve and maintain agricultural land.

Policy 52: ~~Because~~ **For** all lands is within the incorporated urban limits of the City of Happy Valley, all land has been designated "urban" but may be used for agricultural purposes until conversion to urban development occurs. **However, the City shall encourage tree retention prior to development by requiring that lands annexed within the city limits, but which have not filed for land division, are not eligible to receive tree removal permits except for the removal of hazard trees or the harvest of**

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commercial trees, including nursery stock, Christmas trees, etc., but exclusive of generally forested lands. An exception exists for land currently zoned Exclusive Farm Use (EFU) within Clackamas County, which is currently in a state or county tax deferral program for timber production. Said lands, subsequently annexed into the city, shall be treated as a “tree farm” for purposes of this section for so long as the deferrals remain in effect.

Goal # 9 – To diversify and improve the economy of the state.

Policy 53: Deleted by Ordinance #203, September 30, 2000

Policy 54: To encourage compatible residential, commercial and industrial development in **both the City of Happy Valley and** nearby Clackamas County that will provide jobs.

Policy 54A: To reduce vehicle miles traveled and street congestion, and to provide local employment opportunities, Happy Valley will encourage home based businesses that show no outward signs of business activity and fully retain the residential character of existing ~~and~~ neighborhoods.

Policy 54B: ~~Civic uses, including government services, parks and schools, generally should be concentrated in the King Road area, between Mt. Scott Boulevard and SE 145th Avenue, Civic uses may also be approved on Residential land through the conditional use process or on land designated for Mixed Use in the Rock Creek area.~~

Deleted by Ordinance #374, July 1, 2008

Policy 54C: To comply with Statewide Planning Goal 9 (Economy of the State) and to meet long-term neighborhood-oriented commercial and office needs for existing and future City residents **in the Rock Creek Area**, Happy Valley has annexed existing and planned commercial and office sites served by Sunnyside Road in the Rock Creek Area.

Policy 54CD: Generally, the Rock Creek Comprehensive Plan and Aldridge Road Comprehensive Plan will determine land uses and guide the provision of Level 1 facilities and services to land annexed to the City that is located roughly north of Sunnyside Road, east of 137th Drive and west of 162nd Avenue as follows:

54CD.1 ~~The City's long-term~~ **In the Rock Creek Area**, Commercial and Office needs will be met through annexation of the existing Sunnyside Village Center, and the planned Mixed Use Employment, Mixed Use Commercial and Mixed Use Residential designations.

54CD.2 A portion of the City's long-term Multiple Family and Small-Lot Single Family Residential needs will be met through annexation of the planned Mixed Use Residential and Village Residential designations in the Rock Creek Comprehensive Plan Area.

54CD.3 Open space opportunities and natural resource areas will be preserved consistent with Metro's Title 3 and City Comprehensive Plan policies.

54C.4 Medium to Large-Lot Single-Family Residential needs in this sub-area will continue to be met through annexation of the properties within the Aldridge Road Comprehensive Plan Area. Densities within the Aldridge Road Comprehensive Plan Area will match those within the adopted Plan, which may only be altered by a complete replacement of the adopted Plan and subsequent Comprehensive Plan Map/Zoning Map Amendments. Proposed changes to a single parcel or set of multiple parcels that do not include the entire Plan area will not be considered by the City of Happy Valley.

Policy 54DE: Happy Valley will coordinate with Clackamas County in the adoption of "concurrency" standards for development served by Sunnyside Road.

~~Policy 54F: To minimize congestion along Sunnyside Road and to reduce traffic through residential Happy Valley neighborhoods:~~

~~Policy 54F.1: Extension of 147th Avenue connecting Sunnyside Village with 145th Avenue and Happy Valley shall occur prior to or in conjunction with the development of "Mixed Use Residential", "Mixed Use Employment" and "Mixed Use Commercial" land north of Sunnyside Road within the Rock Creek Urban Reserve Comprehensive Plan area. The present alignment and improvements on 147th Avenue through the new annexation area are unsatisfactory for urban level development. The street needs to be realigned to serve as an area-wide transportation facility and to specifically connect Sunnyside Village with 145th Avenue north of Monner Road. The City and County should, with opportunity for public comment, determine an appropriate new 147th alignment and the extent of new right of way needed. This should be coupled with a specific finance plan for 147th Avenue right of way acquisition and street construction. This finance plan should involve the City, County and all undeveloped property within the new annexation area, and be established on a fair and proportionate basis amount those undeveloped properties. Because the realignment and reconstruction of 147th Avenue is central to achieving the objective of the plans for the new annexation area, these activities should be initiated as soon as possible and shall be completed within one (1) year~~

~~from the adoption of this Policy. All development within the new annexation area shall be planned and conditioned to dedicate any necessary right-of-way and participate in the finance plan to realign and rebuild 147th Avenue.~~

Deleted by Ordinance #374, July 1, 2008

Policy 54~~EG~~: Happy Valley shall ensure that all commercial and office centers are accessible by transit, bicyclist and pedestrians, generally as shown within the City's current Transportation System Plan ~~on the Rock Creek Urban Reserve Comprehensive Plan.~~

Policy 55A: To improve the economy of Happy Valley by providing a range of land use types including a variety of commercial and employment districts. The following ~~new~~ commercial and employment districts applicable for any location in the City (~~not just the Rock Creek area~~) were considered and adopted in 2005 (~~Ordinance #320, October 4, 2005~~):

55A.1: General Commercial (GC). The General Commercial district is intended to establish locations for the development of general commercial centers providing a broad range of shopping and service requirements to meet city-wide needs.

55A.2: Community Commercial (CC). Community Commercial is intended to provide locations or "nodes" for a range of small businesses and services adjacent to residential areas as a convenience to nearby residents.

55A.3: Neighborhood Commercial (NC). Neighborhood Commercial (NC) is intended to allow for minor commercial uses and small developments that fit into the fabric of a residential neighborhood and provide very small-scale commercial development when it is compatible with adjacent residential development. NC uses must comply with special standards, such as location criteria, which are intended to promote land use compatibility, reduce vehicle trips, and allow for appropriate transition between uses.

Policy 55B: Location and compatibility of commercial districts. General Commercial and Community Commercial zones are limited to areas of Happy Valley annexed after the end of 2004. Neighborhood Commercial uses associated with the Rock Creek Mixed-Use Employment, R-5 and SFA districts may be allowed throughout Happy Valley subject to special standards. The location and compatibility criteria in sub-policies 55B.1-55B.3 apply:

55B.1: General Commercial location and compatibility. New commercial districts shall be limited to an area of 10 acres of contiguous land.

Building area on a site is also limited to 60,000 sq. ft. per structure. Appropriate locations for General Commercial centers are generally at the intersection of the following types of streets as designated in the City's TSP:

- 1) Major or minor arterial street and major or minor arterial street
- 2) Major or minor arterial street and collector street

55B.2: Community Commercial location and compatibility. New Community Commercial districts are limited in size to not more than two acres of contiguous land. Building area on a site is also limited to 30,000 sq. ft. per structure. Appropriate locations for Community Commercial nodes are generally at the intersection of the following types of streets as designated in the City's TSP:

- 1) Major or minor arterial street and major or minor arterial street
- 2) Major or minor arterial street and collector street
- 3) Collector street and collector street

55B.3: Neighborhood Commercial location and compatibility. New Neighborhood Commercial districts and Neighborhood commercial uses within certain residential districts are appropriately located on lots at the intersection of the types of streets listed below, as designated in the City's Transportation System Plan. There is a corresponding maximum building area for each Neighborhood Commercial development:

- 1) Major or minor arterial street and collector street: 7,000 square feet per building.
- 2) Collector street and collector street: 5,000 square feet per building.
- 3) Collector street and local street: 3,000 square feet per building.

Goal #8 – To satisfy the recreational needs of the citizens of the state and visitors.

- Policy 56: To satisfy the recreational needs of the citizens of the state and visitors
- Policy 57: To provide additional park and outdoor recreational facilities in order to meet recreational needs of residents.
- Policy 58: To enhance and encourage the use of the area's recreational facilities and opportunities.
- Policy 59: To encourage county development of additional recreation areas.
- Policy 60: To encourage creation of a green-belt recreation area in conjunction with the natural areas for open space, bikeways and trails.

Policy 61: To continue the current park improvement program.

Policy 62: To encourage multiple use of schools and school facilities for public and recreational uses.

Goal #12 – To provide and encourage a safe, convenient and economic transportation system for the planned growth and ultimately for full urban development of the City.

Policy 63: Deleted by Ordinance #320, October 4, 2005

Policy 64: To develop good transportation routes (vehicular, pedestrian, bicycle, etc.) between residential areas (and major activity centers both inside and outside the City) with street interconnectivity and neighborhood livability issues being the paramount consideration.

Policy 65: To classify all roadways within the City and adopt the vehicular circulation system set forth in the City's current Transportation System Plan or as amended by additional studies and information.

Policy 66: To review and revise traffic patterns and traffic volumes by employing the city Traffic Safety and Speed Control Standards. Review and revise traffic patterns and traffic safety standards and traffic control devices as traffic volumes change in order to provide a safe transportation and livable system and to improve the vehicle-pedestrian relationship and to improve overall neighborhood connectivity and livability.

Policy 66A: Existing streets which are upgraded and new streets which are constructed in response to new development in the city should be planned and designed to limit noise impacts, spread anticipated traffic volumes throughout available routes, maintain, preserve or improve aesthetics, and provide maximum potential for safety.

Policy 66B: Streets with high volume traffic should not bisect neighborhoods.

Policy 66C: Collector streets should be designed to keep traffic under 25 mph and minimize traffic impact.

Policy 66D: The main goal for a neighborhood street is to provide a safe, interconnected transportation system while protecting the neighborhood and ensuring livability by controlling noise, traffic, speed, and number of vehicles.

Policy 66E: Neighborhood streets should reflect the concept that the street is an extension of the homeowner's yard.

- Policy 66F: Employing street trees on both sides of the roadway and clustering/grouping will give the illusion of mini-parks.
- Policy 66G: Traffic noise and speed can be minimized by employing tight radius curves, circles, and planters within the roadway and speed humps.
- Policy 67: To discourage high-volume, high-speed transportation routes near schools, parks and recreation facilities through the City.
- Policy 68: To encourage and support the development and increased use of public mass transit and the increased availability of bus transportation routes serving the City and its environs.
- Policy 69: When a conflict exists between the objective to protect neighborhoods and the objective to maintain an efficient transportation system can be in conflict with one another, however, priority should be given to the livability and protection of the neighborhoods.
- Policy 70: To encourage the development of bike paths and pedestrian walkways throughout the city in accordance with OAR and the implementation of the County bikeway route through the City.

Goal #11 – To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for the planned growth and ultimately for full urban development of the City.

- Policy 71: To complete a Public Facilities Plan as required by OAR 660, Division 11 and provide public facilities in a timely, orderly and efficient manner to the City.
- Policy 72: When local or other sources of public funding are available for the installation and/or improvement of facilities and services, existing areas of the City which are experiencing on-going problems will receive priority funding and scheduling for necessary work.
- Policy 73: The City will continue to seek federal funding for sewer projects and will attempt to maintain its standing on the EOC priority list.
- Policy 74: To require new developments to provide Level 1 public facilities and services which are consistent with the Leveled Growth Management section of this Plan and are required by City Ordinances.
- Policy 75: To provide public water and sewer, ~~where required,~~ to all areas within the city limits in accord with the appropriate facilities plans ~~through~~ **adopted by the Mt. Scott Water District Sunrise Water Authority** and Clackamas County Service District #1 respectively.

Policy 76: ~~Individual onsite subsurface sewage disposal systems are recognized as a temporary means of permitting low density residential development within the City. Future development utilizing individual onsite subsurface sewage disposal systems shall be permitted on lots of record, or in areas designated RSD-1 overlay which will perpetuate very low density residential development or where sanitary sewer service is not economically feasible for site specific areas according to the City's Public Facilities Plan.~~

Deleted by Ordinance #374, July 1, 2008

Policy 77: New individual onsite subsurface sewage disposal systems may be installed at any time to replace an existing but failing system **within an existing lot of record, but may not be utilized to serve parcels or lots created by any land division, or to serve any new non-residential development.** However, if **public** sanitary sewer service is available within 500 feet **of any property line of an existing lot of record containing an existing failing system,** and capable of serving the site of the failing system with a regular or gravity hookup, sanitary sewer service shall be **extended to the subject site in lieu of** ~~utilized rather than~~ **utilization of** a new replacement individual onsite subsurface sewage disposal systems.

Policy 78: ~~As an interim development measure, phased development utilizing individual onsite subsurface sewage disposal systems may be permitted under the provisions contained in Section 5.07 of the Land Development ordinance.~~

Deleted by Ordinance #374, July 1, 2008

Policy 79: To continue to support the collection of solid waste through private operators.

Policy 80: To monitor the adequacy of solid waste collection service and to communicate with private operators when problems arise.

Policy 81: Solid waste disposal is a regional concern requiring regional solutions. The City of Happy Valley recognizes Metro's responsibility and authority to prepare and implement a solid waste management plan, supports the Metro "Procedures for Siting Sanitary Landfill" and will participate in these procedures as appropriate.

Policy 82: To promote the construction of a storm drainage system, with highest priority given to the drainage areas suffering the most severe problems.

- Policy 83: No facilities and services under the City's jurisdiction will be extended beyond the city limits without due justification until all areas within the City are provided with service. The Facilities Plan requires however, that the planning boundary will be the drainage basin boundary.
- Policy 84: To promote the maintenance and improvement of the natural storm drainageways, and the construction of new systems when required.
- Policy 85: To require new developments to limit storm drainage runoff outside project boundaries or provide a storm drainage and collection system within the project in compliance with the City's Storm Drainage Ordinance.
- Policy 86: Until the City's Facilities Plan is completed and the economic analysis and assessment policies are formulated by Clackamas County Service District #1, the City shall evaluate on a case by case basis those P.U.D's , subdivisions, land partitions or building permit applications which can be provided with sewer service from existing sewer lines adjacent to the City. Their approval during this interim period shall be based on the provisions of the City's Land Development Ordinance, Growth Management Policies, and agreements for the payment of anticipated public facilities assessments.
- Policy 87: To develop a Capital Improvement Program for facilities and services that will meet the planned urban level of demand. Funding for public facilities and services at a level sufficient to meet demand will be obtained from federal, state and local grant sources, formation of local improvement districts, serial levies, bonded indebtedness, and other sources as may be feasible and appropriate.
- Policy 88: Ensure continued maintenance of city streets.
- Policy 89: To encourage or maintain provisions for adequate and/or expanded dog control, litter and nuisance enforcement.
- Policy 90: The City of Happy Valley will cooperate with agencies involved in providing and coordinating public services, and consider the pooling of City resources with various public agencies to provide needed facilities and services within the community.
- Policy 91: The City of Happy Valley recognizes and assumes its portion of the responsibility for participation in the operation, planning and regulation of waste water systems and designated in METRO's Waste Treatment Management Component. In addition, Happy Valley supports METRO's role in the overall responsibility for all waste treatment management.

Goal #13 – To conserve energy; land and uses developed on the land, shall be managed and controlled so as to maximize the conservation of all forms of energy based upon sound economic principles.

- Policy 92: To encourage and promote the recycling of older structures.
- Policy 93: To revise the Land Development Ordinance to protect sun rights and encourage utilization of solar energy, natural vegetation and new landscaping to reduce summer cooling needs.
- Policy 94: To encourage new residential site design, which allows the orientation of structures to take maximum advantage of solar energy potential. Access to sunlight will be safeguarded.
- Policy 95: To encourage the innovative use of alternative energy sources such as solar, wind, etc., on all existing and new residential developments.
- Policy 97: The City shall permit development on vacant buildable lands at its base density levels or less, or at density levels which exceed **base density levels as permitted by Title 16 of the City's Municipal Code**, ~~those designated on the Base Revised Land Use Plan Map in accordance with Sections 5.08 and 5.09 of the Land Development Ordinance~~ when all Level 1 facilities and services are available. ~~All other properties shall be developed pursuant to Section 5.07 of the Land Development Ordinance.~~ Level 1 facilities and services shall be defined as those which are absolutely critical to site development proposals, and are as follows:
- sanitary sewer
 - water supply
 - storm drainage
 - fire protection
 - streets and roads
- Policy 98: In any area of the City where Level 1 services are programmed but are not scheduled for installation and availability for more than one (1) year, a project of phased development may be proposed which will include future bonuses. However, any and all bonuses may be planned for, but shall be taken only when Level 1 services are available to the site. Initial phase (s) of the project may not exceed density limitations established by the Base Comprehensive Plan. All planning for the project must be in accordance with appropriate sections of the current Land Development Ordinance.
- Policy 99: Any and all development within the city shall be subject to participation in the provision of Level 2 facilities and services which are essential to the development of the City as a whole, and shall include:
- schools
 - police protection

- parks and recreation
- public transit
- vector control
- city administrative services

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

Policy 99A: Comprehensive Plan Map Amendments/Zone Map Amendments that involve a change to a land use district that allows residential development as either a permitted or conditional use, shall provide either evidence of adequate school district capacity for the number of students possible under the proposed zone, based on the most dense development scenario provided by said land use district or, shall otherwise demonstrate a recommendation of support from the affected school district.

99A.1 Within any adopted Comprehensive Plan Map/Zoning Map Area, parcels which have not annexed to within the city limits, and/or parcels which have a land use district that may accommodate residential development, but have not provided evidence of adequate school district capacity or otherwise demonstrated a recommendation of support from the affected school district, shall be illustrated within the City's Comprehensive Plan Map/Zoning Map with a zoning designation color that is "shaded" or "hatched." Said parcels will not be allowed legislative implementation of the underlying Comprehensive Plan Map/Zoning Map land use district (removal of shading/hatching) until annexation and demonstration of adequate school district capacity or otherwise demonstrating a recommendation of support from the affected school district. If supported by adequate school district capacity analysis or demonstrated support, said legislative implementation of the land use district may occur at the time of annexation, or may occur at any time after annexation of parcels to within the city limits.

Policy 100: The funding of improvements, extension of construction Level 1 facilities and services within the incorporated limits of the city shall be the responsibility of those whose land use activities caused such improvement, extension or construction to become necessary. Funding sources may include but are not limited to creation of a local improvement district (LID); outside funding or grants in aid; direct source payment with or without agreement for future reimbursement by other property owners who may utilize the facility or service; other sources as may be identified.

Policy 101: Waivers of remonstrance for all future improvements of Level 1 facilities and services shall be required for all approved minor partitions, major partitions, subdivisions and P.U.D.'s. The City shall retain these waivers for use when necessary.

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

Clackamas County Service District No. 1 (CCSD#1)
Sunrise Water Authority
Clackamas County Fire District No. 1 (CCFD#1)
Clackamas County, Department of Transportation and Development (DTD)
North Clackamas School District No. 12 (NCSD#12)
North Clackamas Parks & Recreation District (NCPRD)
Tri-Met
City of Portland
City of Gresham
City of Damascus

Any determination shall be within the parameters of the providers' or agency's own standards, criteria, requirements or plans. The service providers' decision shall be treated as a rebuttable presumption as to the ability of that provider to provide an acceptable level of service. However, the evidence that can rebut said decision must be compelling evidence based upon objective data and the agencies' standards-criteria-requirement or plans in order to controvert the determination of the service provided.

Policy 103: No development of any properties shall be permitted which will interfere or prevent the extension of any Level 1 facilities or services.

**Amendments to Title 2 of the City of Happy Valley
Municipal Code (Administration and Personnel)**

[....]

2.20.050 Officers and duties.

The officers of the parks advisory committee shall be chairperson, vice-chairperson and secretary.

A. Chairperson. The city council shall appoint a separate chairpersons for the parks advisory committee ~~who then become one of the respective advisory committee and/or board members~~. The chairpersons shall ~~schedule and~~ preside at all meetings of the

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~~their respective committee or board. The chairpersons shall also serve as **the** their respective committee or board liaison with city staff, city council, and city planning commission. The chairpersons of the parks advisory committee may be members and hold office of vice chairperson or secretary of the other committee or board of which they are not chairperson.~~

B. Secretary and Vice-Chairperson. The committee shall elect a secretary and vice-chairperson for the parks advisory committee from among the members of the ~~respective committee or board~~ at its first meeting of the year. ~~The secretary and vice-chairperson may be the same for both.~~ The secretary shall record the minutes of all meetings and provide copies of the minutes of such meetings in a timely manner to city staff and city council. The vice-chairperson shall preside over meetings in the absence of the chairperson.

Amendments to Title 15 of the City of Happy Valley Municipal Code (Buildings and Construction)

[...]

15.24.050 Administration

[...]

3. Information to be Obtained and Maintained:
 - a. Where base flood elevation data is provided through the Flood Insurance Study or required as in this section, obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
 - b. For all new or substantially improved floodproofed structures:
 - i. Verify and record the actual elevation (in relation to mean sea level) **to which such structures are floodproofed**, and
 - ii. Maintain the floodproofing certifications required in this section.
 - c. Maintain for public inspection all records pertaining to the provisions of this chapter.

15.24.060 Provisions for flood hazard reduction.

A. General Standards. In all areas of special flood hazards, the following standards are required:

1. Anchoring:
 - a. All new construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structures **resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy**;
 - b. All mobilehomes shall be **elevated and** anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties to ground anchors. Specific requirements shall be that:
 - i. Over-the-top ties be provided at each of the four corners of the mobilehome, with two additional ties per side at intermediate locations, with mobilehomes less than fifty (50) feet long requiring one additional tie per side,

ii. Frame ties be provided at each corner of the home with five additional ties per side at intermediate points, with mobilehomes less than fifty (50) feet long requiring four additional ties per side,

iii. All components of the anchoring system be capable of carrying a force of four thousand eight hundred (4,800) pounds, and

iv. Any additions to the mobilehome be similarly anchored requiring one additional tie per side.

c. An alternative method of anchoring may involve a system designed to withstand a wind force of ninety (90) miles per hour or greater. Certification must be provided to the planning commission that this standard has been met.

d. Reference is made to Oregon Administrative Rule OAR 814.23.065 (effective October 17, 1986). That rule was primarily designed to minimize damage from high winds. It is noted that although the administrative rule does not apply to Clackamas County, in which Happy Valley is located, the city council has determined that it would be appropriate to establish these requirements for the City of Happy Valley.

e. All manufactured homes must likewise be anchored to prevent flotation, collapse or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors. (Reference FEMA'S "Manufactured Home Installation in Flood Hazard Areas" guidebook for additional techniques.)

2. Construction Materials and Methods:

a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

c. Electrical, heating, ventilation, plumbing and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

3. Utilities:

a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.

b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters; and,

c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

4. ~~Subdivisions proposals:~~

~~a. All subdivision proposals shall be consistent with the need to minimize flood damage;~~

~~b. All subdivision proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage;~~

~~c. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and~~

~~_____d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five acres (whichever is less).~~

5. Review of Building Permits. Where elevation data is not available either through the Flood insurance Study or from another authoritative source (Section 15.24.050(D)(2), use of Other Base Flood Data), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.

B. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 15.24.040(B), Basis for Establishing the Areas of Special Flood Hazard or Section 15.24.050(D)(2), Use of Other Base Flood Data, the following provisions are required:

1. Residential Construction:

a. New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated to ~~or~~ **one foot** above base flood elevation **unless the City is granted an exception by the Federal Emergency Management Agency (FEMA) for the allowance of basements in accordance with Section 60.6 (b) or (c) of the National Flood Insurance Program's (NFIP's) Regulations;**

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided,

ii. The bottom of all openings shall be no higher than one foot above grade,

iii. Openings may be equipped with screens, louvers or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

2. Nonresidential Construction. New construction and substantial improvement of any nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation, or, together with attendant utility and sanitary facilities, shall:

a. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water **and so that the structure meets the standards of Section 16.16.460(G) for impacts to the base flood level;**

b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the

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structural design, specifications and plans. Such certifications shall be provided to the official as set forth in Section 15.24.050(D)(3)(b);

d. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in Section 15.24.060(B)(1)(b);

e. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level),

3. Manufactured Homes. All manufactured homes to be placed or substantially improved within Zones A1-30, AH and AE shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is at or above the base flood elevation and be securely anchored to an adequately anchored foundation system in accordance with the provisions of Section 15.24.060(A)(1)(b), also

a. Manufactured homes that are placed or substantially improved within Zones A, AH, and AE within the Flood Insurance Rate Map (FIRM) on sites (i) outside of a manufactured home park or subdivision, (ii) in a new manufactured home park or subdivision, (iii) in an expansion to an existing manufactured home park or subdivision, or (iv) in an existing manufactured home park or subdivision on which a manufactured home has incurred “substantial damage” as a result of a flood, be elevated on a permanent foundation such that the lowest floor on the manufactured home is elevated to one foot above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation collapse and lateral movement,

b. Manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within Zones A, AH, and AE on the FIRM that are not subject to the provisions of paragraph (c)(6) of this section shall be elevated so that either (i) the lowest floor of the manufactured home is one foot above the base flood elevation, or (ii) the lowest floor of the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored foundation system to resist flotation, collapse, and lateral movement.

4. Recreational Vehicles

a. Recreational vehicles placed on sites within Zones A, AH, and AE on the FIRM shall:

i. Be on the site for fewer than 180 consecutive days;

ii. Be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if its wheels or jacking system is attached to the site only by quick disconnect type utilities and security devices, and has not permanently attached additions), or;

iii. Meet the City’s requirements for anchoring of “manufactured homes” described in Section 15.24.060(A)(1)(b).

C. Floodways. Located within areas of special flood hazard established in Section 15.24.040(B) are areas designated as floodways. Since the floodway is an extremely

hazardous area due to the velocity of floodwaters which carry debris, potential projectiles and erosion potential, the following provisions apply:

1. Prohibit encroachments, including fill, new construction, substantial improvements and other development **within the adopted regulatory floodway** unless certification by a registered professional engineer or architect is provided demonstrating **through hydrologic and hydrostatic analyses performed in accordance with standard engineering practices** that encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge;

2. **Notwithstanding any other provisions of this section, the City may permit encroachments within the adopted regulatory floodway what would result in an increase in base flood elevations, provided that the City first applies for a conditional FIRM and floodway revision, fulfills the requirements for such revisions as established under the provisions of Section 65.12 of the National Flood Insurance Program Regulations, and receives approval of FEMA.**

2. If subsection (C)(1) is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section. (Ord. 95 § 5, 1987)

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

16.12.110 Village office district (VO).

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

A. General Provisions.

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

2. The procedures and application requirements under Chapter 16.32 (Design Review) and Chapter 16.50 (General Site Design Standards) shall apply to all development in the village office district. If language within these sections conflicts with specific requirements and standards of the village office district, the standards within the design review and general site design standards chapters shall prevail.

B. Permitted Uses. The following uses will be allowed as primary uses in the village office district:

1. Office uses:

a. Business and professional offices, including legal, financial, architectural, engineering, governmental, manufacturer's representatives, property management, corporate and administrative offices;

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- b. Medical and dental services, clinics or community health care programs, counseling services, and associated pharmacies;
- c. Testing laboratories and facilities, provided no operation shall be conducted or equipment used which would create hazards and/or noxious or offensive conditions;
- d. Graphic arts, printing, blueprinting, photo processing or reproduction labs, publishing and bookbinding services;
- e. Light manufacturing, assembly, artisan, research and development uses which have physical and operational requirements which are similar to other office uses allowed in this district;
- f. Banks, credit unions, savings and loan, brokerage, and other financial institutions, but not drive-in windows or drive through services;
- g. Business services such as duplicating, photocopying, mailing and stenographic services, fax and computer facilities, employment agencies, office management services, notary public, business and communications equipment and service, and real estate offices;
- h. Personal services: answering service, travel agent;
- i. Any use that the community development director or designee finds to be similar to one or more of those specified above.

2. Service Commercial Uses. The following service commercial uses may be provided within an office development, up to a maximum of twenty (20%) percent of the gross floor area of the development:

- a. Coffee shops; cafes and delicatessens which serve at least breakfast and/or lunch; and catering services. No drive-through window service shall be allowed;
- b. Daycare facilities shall be permitted, provided they are integrated within office buildings and do not exceed one thousand five hundred (1,500) square feet or serve more than thirteen (13) children each;
- c. Any use that the community development director or designee finds to be similar to one or more of those specified above.

[...]

D. Conditional Uses.

1. Conditional uses may be allowed subject to review pursuant to Section 16.16.220 (Conditional use). In addition to the criteria for approval listed in that section, conditional uses in the VO District:

- a. Shall address an existing neighborhood need, considering proximity of similar uses;
- b. Shall not substantially increase traffic through the neighborhood, require an additional curb cut, or create greater noise or congestion than a permitted use;
- c. Shall not diminish the amenities of the neighborhood; and
- d. Shall be compatible in size, scale, general appearance, and building materials with surrounding buildings.

2. Uses allowed subject to the above conditions are:

- a. Health and recreational facilities, such as exercise spas, gymnasiums, tennis and racquetball courts, swimming pools, saunas, and similar uses that exceed an accessory use;

b. Institutional uses; educational institutes and trade schools; **daycare facilities, including disabled person daycare facilities exceeding 13 students**; art, music, or dance studios; radio and television studios, excluding transmission towers; [...]

16.12.140 Community commercial district (CC).

A. Purpose. The community commercial (CC) district is intended to provide locations or “nodes” for a relatively wide range of small businesses and services adjacent to residential areas as a convenience to nearby residents. The CC district is to be located and developed in a manner consistent with the comprehensive plan. In order to limit impacts to residential areas, new community commercial nodes are intended to be limited in size to not more than two acres of contiguous land.

Building size is also limited to a thirty thousand (30,000) square-foot footprint, and measured in accordance with requirements of this section. Appropriate locations for community commercial nodes are at the intersection of two arterial streets (major and minor), an arterial street and a collector street, or two collector streets.

B. Permitted Uses. The following uses are permitted in a CC community commercial district and subject to provisions of LDO Chapter 16.50, General Site Design Standards, and Chapter 16.32, Design Review:

1. All neighborhood commercial uses permitted in the SFA district;
2. Art and craft supply stores, studios;
3. Bakeries;
4. Banks, savings and loan associations, loan companies, ATM without drive-through;
5. Barber shops, beauty salons;
6. Bicycle sales, supplies, repair service;
7. Book stores;
8. Camera stores;
9. Coffee shops, cafes, sandwich shops and delicatessens;
10. Drug stores;
11. Dry cleaners and tailors;
12. Florists;
13. Home furnishing stores;
14. Gift stores;
15. Grocery, food, specialty foods, and produce stores;
16. Interior decorating shops, sales and service;
17. Home occupations (Section 16.04-.080);
18. Laundromats;
19. Library, post office, community center, etc.;
20. Music shops, sales and service;
21. Optometry and optical goods, sales and service;
22. Photo finishing, photography studios;
23. Shoe sales and shoe repair stores;
24. Sporting goods, sales and service;
25. Stationery stores;

26. Yogurt and ice cream stores;
27. Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination by the community development director;

28. Medium density residential at SFA densities (ten (10) to fifteen (15) du/acre).

29. Professional and administrative offices, including medical and dental office buildings.

C. Conditional Uses. The following conditional uses may be permitted subject to a conditional use permit and the provisions of LDO Section 16.16.220:

1. Banks, savings and loan associations, loan companies, ATM with drive-through;

2. Churches, synagogues, temples or places of worship;

3. Home occupations subject to a conditional use review (Section 16.04.080);

4. Indoor health and recreation facilities, such as racquetball courts, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities;

5. Public park, usable open space;

6. Public and private schools (includes day care, dancing and music schools);

7. Restaurants (except drive through);

8. Secondhand stores;

9. Taverns, bars and cocktail lounges (a minimum distance of one thousand five hundred (1,500) feet from school uses);

10. Theaters or assembly halls;

11. Video rental stores.

D. Standards.

1. Location. Appropriate locations for community commercial nodes are at intersections of the following types of streets:

a. Arterial street and arterial street (any combination of major and minor);

b. Major or minor arterial street and collector street;

c. Collector street and collector street.

2. Minimum Setbacks.

a. Front setback: Ten (10) feet.

b. Rear setback: None, except when a rear lot line is abutting a lot in a residential zone and then the rear setback shall be a minimum of ten (10) feet. The required rear setback shall be increased by one-half foot for each foot by which the building height exceeds twenty (20) feet.

c. Side setback: None, except when a side lot line is abutting a lot in a residential zone and then the side setback shall be a minimum of ten (10) feet. The required side setback shall be increased by one-half foot for each foot by which the building height exceeds twenty (20) feet.

d. Street side setback: Ten (10) feet.

3. Lot Coverage. Maximum lot coverage by buildings and structures shall be seventy-five percent (75) of the total lot area.

4. Building Size. Maximum building square footage for single use retail buildings is limited to a maximum of a ~~forty~~ **thirty** thousand (530,000) square-foot footprint. For the purposes of measuring maximum building footprint, measurement is taken from outside wall to outside wall of the ground level.

16.13.010 Purpose.

To establish an area, outside of the city core (i.e. outside the 1992 UGMA), that allows a mixture of land use types, including attached housing, retail sales, offices, commercial services and encourages linked transportation trips among these uses. This district is guided by a master plan approved by the city that outlines the general and specific land uses and permits phasing of development. The district is intended to provide flexibility to anticipate local needs and market changes for city residents. Development in the planned mixed use (PMU) district encourages public spaces, for better pedestrian and bicycle travel as well as a transition between high traffic streets and local residential neighborhoods. The planned mixed use district in Happy Valley reinforces the concentration and intensity of uses planned in the 2040 Framework Plan. The district encourages efficient site utilization, including use of gross average density, reduced yard setbacks, **and** shadow plans.

The PMU district requires development over five acres to submit a master plan for approval. ~~There is built-in flexibility in the level of detail required for approval of master plans ranging from a master plan indicating detailed development plans that meet requirements for tentative land division (platting) to identification of general land uses and major transportation connections, to a mixture of these approaches.~~ Once a master plan is approved for the PMU district, detailed development plans will be reviewed through the **subdivision, PUD and/or** design review process as described in Chapter 16.32.

For all properties located within the Rock Creek Comprehensive Plan area, whether illustrated with an underlying Clackamas County zone, PMU designation or city zone on the City's comprehensive plan map/zoning map, the master plan or individual comprehensive plan map amendment/zone change will establish districts to demarcate the general location of commercial, employment and residential areas (mixed use commercial (MUC); mixed use employment (MUE); MUE neighborhood commercial subdistrict; and mixed use residential (MUR)) through a comprehensive plan map amendment/zone change process, per the requirements of Chapter 16.40 of the LDC. In addition, for any parcel less than five acres in size, and thus not requiring a master plan, application of a mixed use commercial, employment or residential district shall also be the subject of a comprehensive plan map amendment/zone change, per the requirements of Chapter 16.40 of the LDC. The master plan shall further distinguish the general location of sub areas within the residential district that will indicate where there will be a mixture of uses and residential areas by intensity of residential density. The commercial district does not require the identification of sub areas. The general type of commercial uses are limited to retail, office and mixed use **centers buildings, all of which are permitted ~~anywhere~~ within the commercial **MUC** district **and to a limited extent within the MUR district.****

The master plan process is directed by Chapter 16.14.

[...]

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16.13.030 Mixed use residential (MUR).

Mixed use residential will promote compact form, and residential and commercial or residential and office mixed **both** vertically, **or in mixed-use centers accommodating stand alone buildings incorporating separate uses** ~~in addition to across the district.~~ The proposed mixed use residential district is composed of four sub-areas: single-family detached, attached, multifamily and mixed-use **center**. The multifamily sub-area provides for a range of densities, each of which should be shown on the master plan map. The multifamily and mixed use sub-areas allow for retail uses that are meant to provide services to local residents, ~~not attract outside traffic.~~ Pursuant to Section 16.13.050, new development in MUR shall be subject to LDC Chapter 16.32, Design Review, and, in addition, nonresidential development shall be subject to the Happy Valley Style Architectural Design Standards.

The density requirements and minimum/maximum lot sizes are meant as a guide, and will vary based on the amount of unbuildable lands removed from gross acres. The density is calculated for each sub-area: single-family, attached, multifamily (low, medium and high), and mixed-use **centers buildings** by calculating the average density for the residential district area identified in the master plan **or individual comprehensive plan map amendment/zone change application. In developments utilizing mixed use centers with separated (rather than vertical mixed-use) commercial and/or office and residential uses, the average residential density allocated to the master plan or site design review area may be transferred internally within the development.** Therefore, some lots may be smaller than the lot sizes given below, except for the single-family sub-area which has minimum lot size. Minimum densities are provided to comply with the Urban Growth Management Functional Plan, Title 1 requirements. Specific housing types and permitted uses for each sub-area are listed in Table 16.13.030.

- A. MUR-S Single-Family Dwellings.
 - 1. Minimum density of six units per net acre;
 - 2. Minimum lot size of four thousand (4,000) square feet.
- B. MUR-A Attached Dwellings.
 - 1. Maximum density of twelve (12) units per net acre;
 - 2. Minimum density of ten (10) units per net acre.
- C. MUR-M Multifamily Dwellings (excluding single-family attached dwellings).
 - 1. Sub areas for multifamily units;

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

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

D. MUR-X Mixed Use **Centers Buildings** with Residential Emphasis. Residential and retail combinations **mixed either vertically or as mixed-use centers,** with the primary use of the building **or center** being residential, **with commercial or office use not exceeding 40 percent of the total building or center development site area.** Permitted commercial uses shown on Table 16.13.030.

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**Table 16.13.030
Mixed Use Residential Permitted Uses**

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

Use Permitted Outright = P

Use Requires Conditional Use Permit = C

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

Use	MUR-S Single- Family Detached	MUR-A Attached	MUR-M Multi-family	MUR-X Mixed Buildings Centers
Commercial—Retail Uses				
Art and craft supply stores, studios	X	X	X	P
Bakeries	X	X	X	P
Banks, savings and loan associations, loan companies, ATM (not drive in or drive through)	X	X	X	P
Barber shops, beauty salons	X	X	P	P
Bicycle sales, supplies, repair service	X	X	X	P
Book stores	X	X	X	C
Coffee shops, cafes, sandwich shops and delicatessens (no drive through service allowed)	X	X	P	P
Drug stores	X	X	X	P
Dry cleaners and tailors	X	X	X	P
Florists	X	P	P	P
Gift stores	X	X	X	P
Grocery, food, specialty foods, and produce stores	X	C	C	P
Hotels and residential hotels	X	X	C	P
Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities.	X	X	C	C
Interior decorating shops, sales and service	X	X	X	P

Use	MUR-S Single- Family Detached	MUR-A Attached	MUR-M Multi-family	MUR-X Mixed Buildings Centers
Laundromats	X	X	P	P
Music shops, sales and service	X	X	X	P
Optometry and optical goods, sales and service	X	X	X	P
Photo finishing, photography studios	X	X	X	P
Post offices	X	X	X	P
Rental stores, without outdoor storage	X	X	X	P
Restaurants, full service	X	X	X	C
Shoe sales and repair stores	X	X	X	P
Sporting goods, sales and service	X	X	X	P
Commercial—Retail Uses (cont.)				
Stationary stores	X	X	X	P
Taverns, bars and cocktail lounges (1,500 feet from school uses, public parks and churches)	X	X	X	C
Yogurt and ice cream stores	X	C	P	P
Video rental stores	X	X	X	C
Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process.	X	X	P (where scale and trip generation are compatible with residential development)	P (where scale and trip generation are compatible with residential development)
Commercial—Offices				
Professional and administrative offices	X	X	X	P
Medical office buildings	X	X	X	P
Residential				
Single-family dwellings	P	P	X	X
Attached dwellings, (townhouses, attached duplex, rowhouses)	C	P	P*	P*
Multifamily dwellings				

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Use	MUR-S Single- Family Detached	MUR-A Attached	MUR-M Multi-family	MUR-X Mixed Buildings Centers
Low	X	X	P	P
Medium	X	X	P	P
High	X	X	P	P
Senior housing	X	X	P	P
Accessory dwelling units (Section 16.16.240)	P	P	X	X
Home Occupation (Section 16.04.080)	P	P	P	P
Institutional				
Churches, synagogues, temples or places of worship	C	C	C	C
Public park, usable open space	C	C	C	C
Private and public schools (includes day care)	C	C	C	C
Utility facilities (telecommunication, pump stations, substations)	X	X	C	C

*Per MUR-A, attached dwellings density standards, listed within Section 16.13.030(B).
[...]

16.13.040 Master plan required.

The PMU district encourages creative development patterns and well planned provision of infrastructure and uses. The district allows a variety of commercial uses and residential dwelling types and densities. The flexibility that is built into the **Rock Creek Comprehensive Plan and the** PMU zone requires a property owner to prepare a detailed planning and study of PMU property resulting in a master plan, which delineates residential and commercial boundaries and provides for phasing of development that can be implemented over time. The master plan process also provides certainty for the city and neighbors who will know with some detail, the amount of open space, location of commercial activity areas, major transportation routes and planned densities and housing types allowed in the **Rock Creek Comprehensive Plan area PMU zone**.

- A. A master plan in accordance with the process outlined in Sections 16.16.061 through 16.16.064 is required for mixed use developments over five acres.
- B. Criteria for Approval.
 1. Master plan is consistent with the purpose of this section, and meets the requirements Sections 16.16.061 through 16.16.064.
 2. Master plan is consistent with the applicable provisions of the Happy Valley Comprehensive Plan and Land Development Ordinance.

3. If a master plan is proposed for a portion of contiguous ownership, then master plan must show transportation connections and other major functions on the contiguous land not included in the master plan.

4. A development agreement(s) is in place, or is part of the conditions of approval for a master plan. Development agreements provide a legal contract between the property owner and the city to provide for on-site and off-site improvements and development costs.

C. Site plan and platting as needed are required for development (if not completed during the master plan process).

1. Once a master plan is approved, the applicant shall prepare a site plan and go through the design review process, and/or go through the land division process in order to develop land. (Ord. 318 Att. A (part), 2005; Ord. 201 § 4.064, 2000)

16.13.050 Planned mixed use development standards.

[...]

E. Parking and Access.

1. ~~To meet the requirements of Title 2 of Metro's Urban Growth Management Functional Plan, the following parking standards apply to development in the planned mixed use zone. Title 2 of the functional plan identifies maximum parking ratios for Zone A and Zone B areas, which are mapped on the Title 2 Parking Map.~~

2. Criteria for review are included in Table 16.13.050(3): Parking Ratios.

a. Structured parking, fleet parking, spaces that are user paid (at a market rate approved by the city), on street parking spaces and market rate surface parking lots are exempt from the maximum parking ratios.

b. Where uses are mixed in a single building, parking shall be a blend of the ratio required less ten (10) percent for the minimum number of spaces. The maximum number of spaces shall be ten (10) percent less than the total permitted maximum for each use.

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

d. On-street parking within three hundred (300) feet of a use may be counted as part of the minimum spaces required.

e. If applicant demonstrates that too many or too few parking spaces are required, applicant may seek a variance from the minimum or maximum by providing evidence that the particular use needs more or less than the amount specified in this code. The evidence shall consist of a parking study performed by a licensed traffic engineer and shall be based on an actual parking survey data of the same use proposed, or on Institute of Transportation Engineers (ITE) data.

f. Shared Parking. If applicant demonstrates that parking is reasonably accommodated between two uses, such use shall be permitted to reduce parking requirement by more than ten (10) percent if supported by a shared parking analysis.

3. Bicycle parking shall be provided in conformance with **Section 16.50.030 (Off-street parking and loading standards)** and shall be subject to the following minimum standards. ~~These standards are subject to modification by the planning director:~~

~~_____ a. _____ Number of Bicycle Parking Spaces. A minimum of two bicycle parking spaces per use required for all uses with greater than ten (10) vehicle parking spaces. The following additional standards apply to specific types of development:~~

~~_____ Multifamily Residences. For residential uses of four or more dwelling units, one bicycle parking space will be provided for every four units. Sheltered bicycle parking spaces are encouraged and may be located within a garage, storage shed, basement, utility room or similar area. In those instances in which the residential complex has no garage or other easily accessible storage unit, the bicycle parking spaces may be sheltered from sun and precipitation under an eave, overhang, an independent structure, or similar cover.~~

~~_____ Assisted Living, Senior Care Facilities, Nursing Home or Hospital. For these uses one bicycle parking space will be provided for every twelve (12) beds.~~

~~_____ Group Living and Independent Senior Facilities. For these uses one bicycle parking space will be provided for every twenty (20) residents.~~

~~_____ Parking Lots. All public and commercial parking lots and parking structures provide a minimum of one bicycle parking space for every ten (10) motor vehicle parking spaces.~~

~~_____ Schools. Elementary schools, both private and public, provide two bicycle parking spaces for every classroom. Middle schools and high schools, both private and public, provide four bicycle parking spaces for every classroom. All spaces should be sheltered under an eave, overhang, independent structure, or similar cover.~~

~~_____ Colleges and Trade Schools. Provide one bicycle parking space for every ten motor vehicle spaces plus one space for every dormitory unit. Fifty percent (50%) of the bicycle parking spaces should be sheltered under an eave, overhang, independent structure, or similar cover.~~

~~_____ Churches, Auditoriums, Theater or Other Places of Public Assembly. For these uses one bicycle parking space for every forty (40) seats or forty (40) persons of design capacity, whichever is greater, will be provided.~~

~~_____ Commercial Uses. For commercial uses, bicycle parking for customers will be provided along the street at a rate of at least one space per use. Individual uses may provide their own parking, or spaces may be clustered to serve up to six bicycles. Bicycle parking spaces shall be located in front of the stores along the street, either on the sidewalks or in specially constructed areas such as pedestrian curb extensions. Inverted "U" style racks are recommended. Bicycle parking shall not interfere with pedestrian passage, leaving a clear area of at least sixty (60) inches between bicycles and other existing and potential obstructions. Customer spaces are encouraged to be sheltered.~~

~~_____ **a.** Multiple Uses. For buildings with multiple uses (such as a commercial or mixed use center), bicycle parking standards shall be the total of all uses calculated separately. A minimum of one bicycle parking space for every ten motor vehicle parking spaces is required.~~

~~[...]~~

~~I. Land Division Processes.~~

~~1. PMU lands require a master planning process that includes a public hearing in front of the planning commission for consideration and approval. Concurrent or subsequent partitions, subdivisions or PUD's may be filed by the applicant, per the provisions of this title.~~

2. Partitions, ~~land divisions and~~ subdivisions **and PUD's** covered by a master plan shall be in conformance with the approved master plan.

J. Design Review Process for Master Planned Areas. Development on PMU lands requires an extensive master planning process that includes a public hearing before the planning commission for consideration and approval. Consideration of the master plan for approval involves examination of design elements such as landscaping, typical building elevations, pedestrian pathways, and identification of open space **within the greater subject site area. However** ~~Therefore~~, development **subject to a design review application** submitted ~~concurrent~~ with a master plan shall be coordinated with the master plan approval under the design review II process **per the review criteria and process described in Chapter 16.32** as determined by the planning commission in the approval decision.

~~1. Design Review II Concurrent with Master Plan Approval. The master plan process gives the applicant the opportunity to submit development applications at the same time and request coordinated reviews. At the applicant's request, a site specific design review process and review as described in Chapter 16.32 shall be concurrent with the master plan process.~~

~~K. Design Review. New development in the PMU District shall be subject to LDC Chapter 16.32, Design Review, and the Happy Valley Style Architectural Design Standards.~~

[...]

16.14.020 Home occupation permits.

[...]

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 Type I and Type II uses described in Section 16.14.020(E) of this chapter.

1. Home occupations may be undertaken only by the principal occupant(s) of a residential property.

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

3. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the operation.

4. The home occupation shall be operated entirely within the dwelling unit and **any** conforming accessory structure. The total area which may be used in **dwelling unit and any** the accessory building for either material product storage and/or the business activity shall not exceed ~~five hundred twenty eight (528) square feet. Otherwise, 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, but in no case shall the portion of the home occupation occupying the accessory use exceed five hundred twenty eight (528) square feet.~~ The indoor storage of materials or products shall not exceed the limitations imposed by the provisions of the building, fire, health and housing codes.

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[...]

16.16.460 Flood management.

A. The purpose of these standards is to reduce the risk of flooding, prevent or reduce risk to human life and property, and maintain the functions and values of floodplains, such as allowing for the storage and conveyance of stream flows through existing and natural flood conveyance systems.

B. This section establishes a flood management area overlay zone, which is delineated on the water quality and flood management area map incorporated by reference as a part of this chapter.

C. The flood management areas mapped include:

1. Land contained within the one hundred (100)-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency flood insurance maps and the area of inundation for the February 1996 flood; and

2. Lands that have physical or documented evidence of flooding within recorded history. Jurisdictions shall use the most recent and technically accurate information available to determine the historical flood area, such as the aerial photographs of the 1996 flooding and digitized flood elevation maps;

3. The standards that apply to the flood management areas apply in addition to local, state or federal restrictions governing floodplains or flood hazard areas.

D. Uses Permitted Outright:

1. Excavation and fill required to plant any new trees or vegetation;

2. Restoration or enhancement of floodplains, riparian areas, wetland, upland and streams that meet federal and state standards.

E. Conditional Uses. All uses allowed in the base zone or existing flood hazard overlay zone are allowed in the flood management overlay zone subject to compliance with the development standards of this section.

F. Prohibited Uses:

1. Any use prohibited in the base zone or existing flood hazard overlay zone;

2. Uncontained areas of hazardous materials as defined by the department of environmental quality.

G. Development Standards. All development, excavation and fill in the floodplain shall conform to the following balanced cut and fill standards:

1. No net fill in any floodplain is allowed. All fill placed in a floodplain shall be balanced with at least an equal amount of soil material removal;

2. Excavation areas shall not exceed fill areas by more than fifty (50) percent of the square footage;

3. Any excavation below bankful stage shall not count toward compensating for fill;

4. Excavation to balance a fill shall be located on the same parcel as the fill unless it is not reasonable or practicable to do so. In such cases, the excavation shall be located in the same drainage basin and as close as possible to the fill site, so long as the proposed excavation and fill will not increase flood impacts for surrounding properties as determined through hydrologic and hydraulic analysis;

5. For excavated areas identified by the city to remain dry in the summer, such as parks or mowed areas, the lowest elevation of the excavated area shall be at least six inches above the winter "low water" elevation, and sloped at a minimum of two percent towards the protected water feature. One percent slopes will be allowed in smaller areas;

6. For excavated areas identified by the city to remain wet in the summer, such as a constructed wetland, the grade shall be designed not to drain into the protected water feature;

7. Minimum finished floor elevations must be at least one foot above the design flood height or highest flood of record, whichever is higher, for new habitable structures in the flood area;

8. Short-term parking in the floodplain may be located at an elevation of no more than one foot below the ten (10)-year floodplain so long as the parking facilities do not occur in a water quality resource area. Long-term parking in the floodplain may be located at an elevation of no more than one foot below the one hundred (100)-year floodplain so long as the parking facilities do not occur in a water quality resource area;

9. Temporary fills permitted during construction shall be removed;

10. New culverts, stream crossings and transportation projects shall be designed as balanced cut and fill projects or designed not to significantly raise the design flood elevation. Such projects shall be designed to minimize the area of fill in flood management areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable;

11. Excavation and fill required for the construction of detention facilities or structures, and other facilities, such as levees, specifically shall be designed to reduce or mitigate flood impacts and improve water quality. Levees shall not be used to create vacant buildable lands.

H. Land Divisions and other proposed new development, including manufactured home parks, shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If a land division or other development proposal is in a flood-prone area, any such proposals shall be reviewed to assure that:

a. All proposals shall be consistent with the need to minimize flood damage;

b. All proposals shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage; and,

c. All proposals shall have adequate drainage provided to reduce exposure to flood damage.

d. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least fifty (50) lots or five (5) acres (whichever is less). (Ord. 194 § 5.134, 1999; Ord. 97 § 5.134, 1986)

[...]

16.20.110 Fencing, walls and screening.

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A. Purpose. While fencing or screening is not uniformly mandatory for all residential development, some circumstances suggest and dictate that fencing or screening shall be erected, installed or planted along the property lines or at some other locations on the property.

B. Criteria. When reviewing all proposals for subdivision of land or planned unit development, the planning commission shall determine the need and desirability of fencing or screening within the development site area. In its consideration, the planning commission or appropriate and designated body or agent shall use the following criteria:

1. The intended use for the area;
2. Surrounding uses;
3. The impact of the intended use upon surrounding uses and vice versa;
4. The need for fencing or screening to reduce the amount of use conflicts, noise, wind, dust, vision and other forms of pollution and conflicts;
5. The need and desirability for the replacement of trees removed from the site as a result of the proposed development.

C. Procedure. 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** Fences or walls may be placed in front yards in any residential district provided they do not exceed three feet in height on corner lots and four feet in height on interior lots;

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 or easement, in which case said fence or decorative wall shall not exceed two and one-half feet in height;**

~~In any residential district, sight-obscuring hedges may be planted and maintained within the required interior yards provided that they do not exceed eight feet in height. Within required front yards in residential districts, hedges may be planted and maintained provided that they do not exceed three feet in height on corner lots and four feet in height on interior lots;~~

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 ~~three~~ **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. **For any development of a structure, yard or any facility requiring the utilization of retaining walls, retaining walls over four feet in height require the approval of a building permit and engineering of the retaining wall, including provisions for stormwater management. Within any zoning district, on property immediately abutting existing residences or residential districts, the maximum**

single-face retaining wall height within an individual existing lot of record, parcel or lot (as created after any retaining walls necessary for any public or private infrastructure such as streets, stormwater detention facilities, etc.) shall have a maximum height of eight (8) feet, as measured from the downslope face of the retaining wall. Retaining walls may be terraced up the slopes of existing lots of record, parcels or lots, but shall have a minimum distance between walls of the height of the downslope retaining wall; as measured from the upslope side of the lower retaining wall to the downslope side of the upper retaining wall. All retaining walls abutting other single-family residences or zoning districts shall provide solid vegetative screening along the entire linear face of the lowest retaining wall. Fences or decorative walls may exist atop retaining walls, and are measured in height independent of the retaining wall. Said facilities may exist to the maximum height allowed in the front, interior side, exterior side (corner lot) or rear setback area. No artificial fencing or screening which is located along any property line may exceed a height of six feet from grade.

D. Pools. For the purpose of safety, any property which contains any size in-ground swimming pool or an above-ground swimming pool any part of which is less than forty-eight (48) inches in height above grade shall be fenced with an artificial fence of continuous construction of not less than four feet in height. Additionally, the gate entrances to the pool area should be lockable.

16.20.160 Improvement and upgrading of public facilities and services.

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

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

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

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D. The city shall be held harmless in any improvement or upgrading activity carried on by the developer, even though such activity was required or approved by the city. The developer shall sign such an agreement as provided by the city attorney.

E. New individual subsurface sewage disposal systems may be installed at any time to replace an existing but failing system within an existing lot of record, but may not be utilized to serve parcels or lots created by any land division, or to serve any new non-residential development. However, if public sanitary sewer service is available within 500 feet of any property line of the existing system and capable of serving the site of the failing system with a regular or gravity hookup, sanitary sewer service shall be utilized rather than a new replacement individual onsite subsurface sewage disposal systems.

16.20.090 Tree cutting and preservation.

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

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

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

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

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

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

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

“Forest canopy” means areas that are part of a contiguous grove of trees of one acre or larger in area with approximately 60 percent or greater crown closure.

“Land Development Code” or “LDC” means Title 16 of the city’s municipal code.

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

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

“Optimal tree protection zone” means an area around a tree that must be protected to ensure that the tree is not physically damaged, and that the roots are protected. The minimum distance from the center of a tree to the disturbance line shall be one foot of

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radius per inch of diameter at breast height (dbh), as measured four and one-half (4.5) feet above the uphill side of the tree. Within these parameters, no more than thirty-three (33) percent of the area may be disturbed, though with healthy vigorous trees, up to fifty (50) percent of the area may be disturbed if supported by a certified arborist.

“Person” means any individual or legal entity.

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

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

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

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

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

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

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

C. Tree Removal Permits.

1. No person shall remove a tree, as defined in this section, without first obtaining a tree removal permit from the city. Permits shall be either a Type A permit or a Type B permit.

2. All tree removal permit fees shall be determined by resolution of the city council.

3. The city may impose additional conditions in writing upon approval of a Type A or B tree removal application such as the time and nature of the removal, mitigation measures, erosion control or other reasonable conditions.

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

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

D. Type A Permits.

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

a. The applicant proposes to remove a maximum of three trees;

b. The property is intended for, or occupied by, a single-family dwelling;

c. The property is exclusively used for single-family residential uses, with or without accessory uses permitted under the 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. 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 (D)(1)(a) of this section may be made by a representative of the city for trees that are located within the building envelope of a proposed structure.

E. Type B Permits.

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

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

a. A tree survey prepared by a certified arborist, or other qualified landscape specialist as approved by the city, which describes size, species, health and condition of trees, and a map at a minimum scale of one inch equals one hundred (100) feet, that locates trees on the property. Drainage ways, wetlands and surface water features shall also be identified on the map, unless waived by the community development director;

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

c. All trees removed pursuant to a Type B permit ~~may~~ **shall** be replaced on a basis of up to three trees replanted for each tree removed, quantity to be determined by the community development director (or designee). For Type B permits, the city may require that replacement trees have shade or erosion control potential or other characteristics comparable to or greater than the removed trees. Replacement trees shall be appropriately chosen for the site from an approved tree species list supplied by the city, or as approved by a representative of the city, and shall be nursery Grade No. 1 or better. All replacement trees shall be at least one and three-quarters 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,

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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 shall 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 ~~seven working~~ **30** days, the city shall notify an applicant if the application is deemed complete or not complete. ~~Within twenty-one (21) working days of the submission of a complete or completed Type B application, the city shall approve or deny the application;~~

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

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

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

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

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

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

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

5. Tree removal from forested lands outside of commercially viable tree farms per the definition for "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.

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

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

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

a. **Optimal Tree Protection Zone.** A tree that is adjacent to a public right-of-way, public infrastructure and utility area, or potential or actual building footprint shall be retained only if protected within the optimal tree protection zone as defined in subsection B of this section. Within the portion of the optimal tree protection zone that is being protected, a substantial fence or barrier shall exist. Within the fenced area, no soil disturbance, including stripping, is permitted. The natural grade is to be maintained, and no storage or dumping of materials, parking, etc. will be allowed within this protection area. The protection area fence or barrier shall remain in place through the construction of the structure. If excavation is proposed within the optimal tree protection zone (outside of the fenced off protection area), tree roots shall be pruned along excavation lines in the following manner:

- i. Excavation in the top twenty-four (24) inches of the soil in the critical root zone area should begin at the excavation line closest to the tree;
- ii. Excavation is to occur with a hand shovel or a backhoe accompanied by a person with a shovel, pruning shears and a pruning saw;
- iii. When shoveling, all roots one-inch diameter or larger shall be pruned at the excavation line. When a backhoe is utilized, the operator starts the cut at the excavation line and if encountering roots or resistance, has the person with the shovel/shears/saw prune the roots larger than one-inch diameter;
- iv. Backhoes are to remain off of the roots to be saved at all times; and
- v. All excavation work within the optimal tree protection zone (outside of the fenced protection area) shall be accomplished under the supervision of a certified arborist.

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

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

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

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

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

(I) of this section. Tree removal permit application fees may also be waived by a representative of the city after the emergency condition has been adequately verified.

H. Creation and Preservation of View Corridors.

1. Trees that exist within an existing lot of record, parcel or lot that are not part of a preliminary subdivision or PUD may be removed for the creation or preservation of view corridors in the city. Applications to remove trees for the creation or preservation of view corridors shall be made upon forms prescribed by the city. Application type shall be dependent upon whether the applicant meets Type A or Type B permit criteria, as stated in subsections (D) and (E) of this section. In such circumstances, the community development director or designee may waive certain submittal requirements, including the necessary arborist's report.

I. Mitigation of Tree Removal within Annexation Areas.

1. Previously unincorporated areas within Clackamas County that have annexed within the City of Happy Valley and have caused significant removal (greater than 50 percent) of the "forest canopy" (part of a contiguous grove of trees of one acre or larger in area with approximately 60 percent or greater crown closure) that are not part of a "tree farm" per City definition, shall be evaluated at the time of land division or site design review application for past tree removal. For discernible mass tree removal by remaining stumps, logging permit records, survey data, or any other means authorized by the Planning Official or designee that has occurred within a previous five-year period from submittal of a complete land use application, tree mitigation at a ratio of 2:1 shall be required. If on or off-site tree mitigation efforts are not accomplished per the auspices of this chapter, the applicant may make payment to the City's Tree Bank in-lieu of tree planting mitigation.

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

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

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

~~3. Tree farms and fruit or nut orchards that can demonstrate current commercial growing and harvesting operations shall be excluded from the provisions of this title, 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.~~

~~4. Trees may be removed for the creation or preservation of view corridors in the city. Applications to remove trees for the creation or preservation of view corridors shall be made upon forms prescribed by the city. Application type shall be dependent~~

~~upon whether the applicant meets Type A or Type B permit criteria, as stated in subsections (D) and (E) of this section.~~

I. Violation and Penalties.

1. If a tree is removed without a tree removal permit, a violation may be determined by measuring the stump. A stump that is six inches or more in diameter at four and one-half (4.5) feet above ground level, or as close to four and one-half (4.5) feet above ground level as can be determined from remaining evidence, shall constitute prima facie evidence of a violation of this chapter.

2. Failure to follow any requirements or conditions of an approved tree cutting permit shall constitute a violation of this section.

3. Removal of the stump of a tree cut without a tree removal permit prior to the determination provided for in subsection (I)(1) of this section is a separate, additional violation of this section.

4. Each day's violation of any provision of this section constitutes a separate offense. Each individual tree removed in violation of the requirements of this section shall be a separate offense hereunder. Failure to comply with a condition of approval shall be a separate infraction each day the failure to comply continues. Each offense or infraction is subject to a civil penalty as prescribed in Section 16.48.070 of this title.

5. A person who removes a tree subject to this section without first obtaining a valid tree removal permit may obtain a retroactive permit by demonstrating that the removal complied with the applicable criteria for obtaining a tree removal permit. No person may obtain more than one retroactive permit. In addition, the applicant may be subject to additional mitigation requirements as determined by the city.

6. Upon request of the city manager or at the direction of the city council, the city attorney may institute appropriate legal action to enjoin the removal of trees in violation of this section, or to otherwise enforce the provisions of this section.

7. The city shall have authority to issue a stop-work order, withhold approval of a final plat and/or withhold issuance of a certificate of occupancy, permit or inspection until the provisions of this section have been fully complied with.

8. A builder, developer or tree service holding a city business license who is convicted of violating any provision of this section shall constitute grounds for revocation of the license, at the discretion of the city council.

9. Any arborist, landscaper, contractor or tree service that has performed any tree removal in violation of this section or submitted a falsified report in connection with any tree removal or application for any tree removal covered by this section, shall not be considered a responsible bidder for any city contracts for a period of five years from the date of violation and/or penalty, whichever is later. The city council may, at its discretion, waive this provision upon a showing of good cause.

10. Removal of a tree in violation of this section is declared to be a public nuisance, and may be abated by appropriate proceedings pursuant to city Charter Section 21.

11. The owner of the property upon which tree removal takes place is subject to enforcement and penalties pursuant to this section regardless of whether such owner personally conducts activities in violation of this section.

[...]

16.32.090 Happy Valley Style design review standards for nonresidential development.

A. Definitions.

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

2. "Maximum setback" means the maximum distance between a building or other development and a property line which abuts a public street, or to the nearest improved edge of a private street, access drive, or drive aisle.

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

4. "Drive aisle" means an internal vehicular drive within a commercial complex parking lot, typically bordered by parking spaces.

B. Building Siting and Design Standards and Characteristics.

1. Happy Valley Style Required. Buildings shall be designed using building design elements of the Happy Valley Style to create distinctive buildings with richly textured, visually engaging facades and that are pedestrian friendly (see Appendix 16.32).

2. Complex Massing Required. New buildings shall use massing characteristic of the Happy Valley Style and asymmetrical composition to avoid the monolithic expanse of frontages and roof lines and break up building sections using elements including variable planes, projections, bays, dormers, setbacks, canopies, awnings, parapets, changes in the roof line, materials, color, or textures. (See Element 2, Appendix 16.32)

3. Pedestrian Oriented Siting. In order to orient buildings to the pedestrians walking on the pedestrian network and to activate the pedestrian environment and emphasize pedestrian movements, development shall meet the following standards:

a. At least fifty (50) percent of the building frontage must meet the maximum setback of six feet from a property line which abuts a public street, or the nearest improved edge of a private street or access drive. However, in scenarios involving multiple frontages, the developer shall have the option to designate and orient the front, side and rear façades of a structure. In no case shall buildings be required to have dual front facades.

b. On sites where public or private streets, or access drives more than two hundred (200) feet in length intersect, the building must meet the maximum setback requirements of subsection (B)(3)(a) of this section on at least two of the intersecting streets.

c. The requirement for building frontage on multiple streets in subsection (B)(3)(b) of this section shall apply first to intersections of public streets, and second to intersections of public and private streets. Where these specific combinations of intersections do not exist, the applicant may select the intersection for the two required building frontages.

d. The placement of pedestrian amenities within the maximum setback requirements of subsection (B)(3)(a), including, but not limited to, seating areas, water features, and plazas measuring a minimum of five hundred (500) square feet, and not to exceed one thousand (1,000) square feet, may count toward the requirements of this section as alternatives to the placement of building frontage within the maximum setback

area. Plazas shall include construction materials that differ from the surrounding sidewalk, and shall be approved by the design review board. Materials include (but are not limited to), paving bricks, stamped concrete, etc.

4. Street Corners.

a. Where development is proposed on a corner lot, buildings shall be located to preserve or create strong building edges at public street corners (See Element 5, Appendix 16.32).

b. Buildings located on street corners shall be designed to compliment and be compatible with other corner buildings at the same intersection by repeating or echoing the same pattern of corner treatment by creating similar focal points such as entries, towers, material or window elements, signage, etc.

c. Reinforce street corners by repeating facade elements such as signs, awnings and window and wall treatments on both sides of the corner.

5. Roof Forms. Roof forms shall promote architectural diversity and interest, preferably through the use or appearance of gable and hipped roof forms. Flat roofed buildings without articulation shall only be allowed pursuant to Section 16.32.110, Exceptions. (See Element 3, Appendix 16.32). Roof line offsets shall be provided at intervals of seventy-five (75) feet or less, to create variety to the massing of structures and relieve the effect of a single, long roof. Roofline offsets shall be a minimum eight-foot variation either vertically from the gutter line or horizontally.

6. Building Height and Number of Stories.

a. One story construction shall have a minimum height of twenty-two (22) feet at the public or private street side building edge.

b. Buildings located on public street corners shall contain an architectural element at least thirty-four (34) feet or two structural stories in height. Two story building elements include but are not limited to:

- i. Tower;
- ii. Enclosed porch;
- iii. Entrance pavilion.

7. Entrances.

a. To encourage increased pedestrian density on public and private streets and sidewalks, primary building entrances should be oriented to, or be at an angle no more than forty-five (45) degrees from the street (public or private) or access driveway greater than two hundred (200) feet in length, to the maximum extent practicable. For multi-tenanted buildings or buildings with multiple entrances, or both, only one primary entrance must comply with this standard. In addition, for buildings with multiple frontages, only one primary entrance on one building frontage must comply with this standard (see Element 5, Appendix 16.32).

b. Primary building entrances shall be architecturally emphasized.

8. Storefront Appearance **for Commercial and Office Buildings.**

Commercial and office Buildings fronting on public or private streets or an access driveway more than two hundred (200) feet in length shall create a storefront appearance on the ground floor by implementing the following standards:

a. Changing buildings planes, materials or window patterns, or by creating a break in awning or canopy construction at intervals of about forty (40) feet; and

b. Ground Floor Windows. To avoid blank walls and create a storefront appearance at the ground level, exterior building walls facing a public or private street or an access driveway greater than two hundred (200) feet in length shall incorporate ground floor windows.

i. Required Window Areas. Windows must be a minimum of forty (40) percent of the length and twenty (20) percent of the ground level wall area. Ground level walls include all exterior walls from three feet above finished grade up to nine feet above the finished grade.

ii. Qualifying Window Features. Required window areas must either be windows that allow views into working areas or lobbies, pedestrian entrances, or display windows set into the wall. Display cases attached to the outside wall do not qualify. The bottom of the windows must be no more than three feet above the adjacent exterior grade.

9. Materials. Building materials shall reflect the Happy Valley Style. (See Element 4, Appendix 16.32).

a. Primary Materials. A "primary material" is the predominant building material that covers a minimum of sixty (60) percent of the building's exterior walls. Primary materials are:

i. Masonry, which includes natural and natural-looking stone, and rusticated brick or concrete blocks that are residential in character and appearance;

ii. Wood (siding or shingles);

iii. Glass.

b. Secondary Materials. A "secondary material" is not the predominant building material. Any one secondary material shall not cover more than forty (40) percent of the building's exterior walls. Secondary building materials are:

i. Glass;

ii. Typical commercial-grade stucco;

iii. Typical commercial-grade brick;

iv. Steel.

c. Multiple-Story Buildings. When buildings have two or more stories, the material used at the ground level shall differ from that used at upper levels in order to create a clear distinction between the ground and upper levels.

d. Roof. New buildings or substantial remodeling that involve modifications to the roof shall use the following roofing materials:

i. Slate, tile, shakes or wood shingles, or synthetic materials (e.g., concrete, pressed wood products, metal or other materials) that are designed to and do appear to be slate, tile, shake or wood shingles.

ii. If a new or remodeled building utilizes a flat roof, materials that will not cause roof repairs (patching) to be readily visible.

e. Prohibited Materials. The following exterior building materials or finishes are prohibited:

i. Plastic, except when use to replicate old styles (e.g., vinyl clad windows, polyurethane moldings, plastic columns, etc.);

ii. Metal or vinyl siding;

iii. Mirrored glass;

iv. T-111 Type plywood;

v. Corrugated metal or fiberglass;

- vi. Standard form concrete block (not including split faced, colored or other block designs that mimic stone, brick or other similar masonry);
- vii. Back-lighted fabrics, except that awning signs may be backlit fabrics for individual letter or logos;
- viii. Typical commercial-grade red brick, unless used as a "secondary material" (See subsection (A)(8)(b) of this section).

[...]

16.40.041 Review criteria.

- A. The proposed amendment is consistent with and promotes applicable goals and policies of the comprehensive plan of the city.
- B. There is a demonstrated public need for a change of the specific type proposed.
- C. That need will be best served by the amendment as proposed as compared with other alternatives.
- D. The proposed amendment is consistent with the use and implementation of growth management mechanisms and capital improvement programs of the city.
- E. The proposed amendment can be implemented by this land development title and all other appropriate codes, ordinances and regulations.

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

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

16.50.050 Grading requirements.

In addition to the provisions in Ordinance 138, and the Grading Plan as required in Section 16.32.060, the following standards shall be met for all projects undergoing ~~design~~ **construction plan** review:

- A. Grading on new project sites shall blend with the contours of adjacent properties. Abrupt or unnatural appearing grading design is not allowed unless otherwise approved by a condition of approval through ~~this~~ **land division or design review** processes.
- B. Proposed cut and fill slopes shall be rounded off both horizontally and vertically.
- C. Where graded building pads are proposed, they should extend three feet to five feet beyond the building foundation to allow a transition to the natural setting.
- D. The height and length of retaining walls visible from public areas including public streets **and/or abutting private properties** shall be minimized and screened with appropriate landscaping, **to be reviewed and approved by the Planning**

Official or designee. Retaining walls shall incorporate, where possible, design elements of other architectural or natural features of the project.

E. Grading under the drip line of protected trees is prohibited to prevent soil compaction and significant root damage. A protected tree is one that is outside the building envelope or infrastructure improvement area per Section 16.20.090. On sites in the open space, the restriction on grading is extended to one and one-half times the distance from the trunk to the drip line unless mitigation by replanting native species or eradication of unwanted plant species has been approved by the city.

F. Tall, smooth-faced concrete retaining walls are not allowed unless placement and design are approved through the design review process.

G. Retaining walls shall be set back from the property line, the distance of a minimum of two feet or one-half of the retaining wall height, whichever is greater except where a recorded slope easement exists and/or a maintenance agreement for the wall is in place.

H. Terracing shall be considered as an alternative to the use of tall or prominent retaining walls, particularly in highly visible areas on hillsides.

I. When designing a grading plan, balancing the cut and fill is highly encouraged when it does not result in further damage to the natural topography.

[...]

16.52.120 Sidewalks and bikeways.

A. Requirements for sidewalks and bikeways shall be as delineated within the transportation system plan (TSP).

B. Sidewalks.

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

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

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

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

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

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

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

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

9. Alternate Sidewalk Location. It is the general policy of the city to place sidewalks off the traveled portion of any roadway. In areas where the placement of the sidewalk would result in the removal of significant trees or the construction of significant

fill or cut slope or in other cases deemed appropriate by the city engineer, the sidewalk may be placed elsewhere with a design approved by the city engineer.

[...]

Chapter 16.60 SIGNS

[...]

16.60.020 Definitions.

[...]

"Temporary sign" means a sign that will become obsolete after the occurrence of an event or series of events. Temporary signs include, but are not limited to: for sale and lease signs, garage sale signs and political campaign signs. Temporary signs are not permanently attached to the ground (set on or post driven or dug into the ground with no footing or foundation), wall or building. Temporary signs on a property being offered for sale shall be removed within ~~30~~ **14** days of sale or transfer of possession whichever occurs first. Additional lawn signs shall be removed within 12 days after an election.

16.60.050 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 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, ~~strings of lights,~~ balloons, hulas, banners, **flags,** pennants, **etc.** or vehicle mounted signs, excepting traditional holiday decorations **or temporary signs per 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, ~~such as to provide two or three or more images or messages in sequence 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 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.
(Ord. 310 Exh. A (part), 2005; Ord. 216 Exh. A (part), 2001)

16.60.060 Signs not requiring a permit.

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

~~A. One or more temporary signs per street frontage of property provided such a sign(s) does not cause a public safety hazard or nuisance, has no more than two faces per sign, and the collective total sign face(s) does not exceeds six square feet in area. In commercial and mixed-use zones temporary signs may be a maximum of thirty two (32) square feet;~~

A single sign where the display surface area does not exceed two (2) square feet;

~~B.~~ **Window signs**, up to nine (9) square feet, situated on the indoor-side of a window or door in commercial and mixed-use zones;

~~C.~~ **Signs attached to, or carried by, a person;**

~~D.~~ **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;**

~~F. Temporary signs.~~

16.60.070 Signs in residential zones.

A. Signs Allowed. In all residential zones ~~the MUR, VTH, R-7, R-8.5, R-10, R-15, R-20, and R-40 zones,~~ the following signs are allowed:
[...]

16.60.070 Signs in residential zones.

2. Temporary Signs

- i. Temporary signs shall not be internally or externally illuminated.
- ii. Temporary signs shall not be located or extend into or over public right-of-way or into the clear vision area with the exception of special event banner signs (please see definitions section for description).
- iii. 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.
- iv. Temporary signs shall not be attached to fences, trees, shrubbery, utility poles, or like items. They shall not obstruct or obscure primary signs on adjacent premises. They shall not create a traffic hazard because of distractive character to motorists of any such device or the cumulative effect of all such devices.
- v. Temporary signs shall not exceed thirty-two (32) square feet.
- vi. **Only one temporary sign advertising a residential development shall be allowed.**
- vii. Temporary signs on a property being offered for sale shall be removed within ~~30~~**14** days of sale or transfer of possession whichever occurs first. Additional lawn signs shall be removed within 12 days after an election. **For all other properties, the Sign Official shall establish an expiration date a timeframe for placement for each temporary sign approved at the time of permit issuance. Approval periods shall be good for no more than 60 days.**
- viii. All required permits shall be obtained prior to placement of sign.

16.60.075 Signs in Institutional and Public Use (IPU) zone.

- A. Signs Allowed. In the IPU zone the following signs are allowed.
1. Freestanding Signs.
 - i. 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;
 - ii. 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;

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- iii. 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);
 - iv. 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 percent (25%) of the sign face's width;
 - v. The poles, posts, columns or similar supports for freestanding pole signs shall be plumb (straight up);
 - vi. No portion of a freestanding pole sign shall extend on or over a building;
 - vii. The surface display area shall not exceed one hundred (100) square feet, with fifty (50) square feet maximum area per sign face;
 - viii. The faces of two-sided pole signs shall be parallel to each other;
 - ix. All required permits shall be obtained prior to placement of sign.
2. Monument Signs.
- i. 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;
 - ii. No more than two sides are allowed;
 - iii. Signs shall not extend any higher than six feet above grade;
 - iv. Signs shall not exceed sixty (60) square feet in area;
 - v. Only indirect or internal illumination is allowed;
 - vi. Signs shall be placed in accordance with the clear vision area;
 - vii. All required permits shall be obtained prior to placement of sign.
3. Wall Signs.
- 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.
4. ~~Temporary Signs.~~
- ~~i. Temporary signs shall not be internally or externally illuminated;~~
 - ~~ii. 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 (see Definitions, Section 16.60.020 of this chapter for description);~~
 - ~~iii. 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;~~
 - ~~iv. Temporary signs shall not be attached to trees, shrubbery, utility poles, or like items. They shall not obstruct or obscure primary signs on adjacent premises. They shall not create a traffic hazard because of distracting character to motorists or any such devices or the cumulative effect of all such devices;~~
 - ~~v. Temporary signs shall not exceed thirty two (32) square feet. (Ord. 310 Exh. A (part), 2005)~~

Readerboard Signs.

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- i. 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;**
- ii. Readerboard signs shall not exceed 24 square feet in size. The readerboard and associated sign shall not exceed the total allowable sign area for the IPU zoning district;**
- iii. The design and placement of the readerboard and associated sign shall not adversely affect vehicular or pedestrian safety; and,**
- iv. The readerboard and associated sign shall comply with all other requirements of this chapter.**

[...]

16.60.080 Signs in mixed-use and commercial zones.

A. Signs Allowed. In mixed-use **and commercial** zones (~~MUE and MUC~~), the following signs are allowed:

- 1. Wall signs.
 - 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.
- 2. Free-standing and monument signs, so long as a permit is first obtained as required by this chapter and the following standards are met:
 - i. 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.
 - ii. Area.
 - a. 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;
 - b. 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;
 - c. 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;
 - d. In no case shall any sign have a surface display area in excess of two hundred (200) square feet.
 - iii. Projection. Free-standing signs shall not project over a public right-of-way;

- iv. Clearance. A minimum clearance of ten feet from grade shall be maintained over pedestrian or vehicular areas, fourteen (14) feet over areas of truck access;
 - v. Horizontal Dimension. The greatest horizontal dimension shall not exceed twenty (20) feet for any free-standing sign;
 - vi. Height. The height of any free-standing or monument sign shall not exceed ten 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;
 - vii. 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:
- i. 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 free-standing sign;
 - ii. 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;
 - iii. Projection. Maximum projection from a building wall shall be four feet. No sign shall project within two feet of the curb line;
 - iv. 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;
 - v. Clearance. A minimum clearance of **eight feet from grade shall be maintained over pedestrian areas**, ten feet from grade ~~shall be maintained over pedestrian or~~ **over** vehicular areas, **and** fourteen (14) feet over areas of truck access;
 - vi. Separation. The minimum distance from another projecting sign shall be twenty (20) feet in the same horizontal plane;
 - vii. 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. ~~Incidental Signs. One additional sign is allowed per premises, so long as a permit is first obtained as required by this chapter. An incidental sign may be a free-standing or wall sign, but in either case, shall meet all provisions for such signs, excepting area. The surface display area of an incidental sign shall not exceed thirty-two (32) square feet, and no sign face shall exceed sixteen (16) square feet.~~

Readerboard Signs.

- i. **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;

ii. Readerboard signs that are part of an accompanying sign shall not exceed 24 square feet in size. Readerboard signs located within window areas shall not exceed 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;

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

iv. 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.

16.60.086 Temporary signs.

A. Temporary signs may include 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 (see Definitions, Section 16.60.020 of this chapter for description);

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 on adjacent premises. They shall not create a traffic hazard because of distracting character to motorists or any such devices or the cumulative effect of all such devices;

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

6. Temporary signs on a property being offered for sale shall be removed within 30 days of sale or transfer of possession, whichever occurs first. Temporary election signs shall be removed within 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 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 sign.

CITY OF HAPPY VALLEY
12915 S.E. KING RD.
HAPPY VALLEY, OREGON 97086-6204



ENVELOPE FOR HAPPY VALLEY
Local # CPA-03-08....
LDO-05-07.....

Attn: Plan Amendment Specialist
Dept. of Land Conservation &
Development
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540