



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

02/19/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: City of Happy Valley Plan Amendment  
DLCD File Number 011-12

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: Thursday, February 28, 2013

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

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

\*NOTE: The Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

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

<paa> YA



FORM 2

DLCD

# Notice of Adoption

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

In person  electronic  mailed

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FEB 11 2013

LAND CONSERVATION  
AND DEVELOPMENT

For Office Use Only

Jurisdiction: **City of Happy Valley**

Local file number: **LDC-09-12**

Date of Adoption: **2/5/2013**

Date Mailed: **2/7/2013**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD?  Yes  No Date: 11/15/2012

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".  
Adopted Administrative Amendments to Title 16 of the City's Municipal Code.

Does the Adoption differ from proposal? Please select one

No

Plan Map Changed from: **N/A**

to: **N/A**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **N/A**

Acres Involved: **0**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>	<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>	<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
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Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

35-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD file No. 011-12 (19597) [17355]

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

Metro

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Local Contact: **Michael D. Walter Eco & Com Dev Dir** Phone: (503) 783-3839 Extension:  
Address: **16000 SE Misty Dr** Fax Number: **503-658-5174**  
City: **Happy Valley** Zip: **97086-** E-mail Address: **michaelw@happyvalleyor.gov**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

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

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting the adopted amendment, please print a completed copy of Form 2 on **light green paper if available**.
3. Send this Form 2 and one complete paper copy (documents and maps) of the adopted amendment to the address below.
4. Submittal of this Notice of Adoption must include the final signed ordinance(s), all supporting finding(s), exhibit(s) and any other supplementary information (ORS 197.615 ).
5. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) by DLCD of the adoption (ORS 197.830 to 197.845 ).
6. In addition to sending the Form 2 - Notice of Adoption to DLCD, please also remember to notify persons who participated in the local hearing and requested notice of the final decision. (ORS 197.615 ).
7. Submit **one complete paper copy** via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.
8. Please mail the adopted amendment packet to:

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

9. **Need More Copies?** Please print forms on 8½ -1/2x11 **green paper only if available**. If you have any questions or would like assistance, please contact your DLCD regional representative or contact the DLCD Salem Office at (503) 373-0050 x238 or e-mail [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us).

Mayor  
Honorable Lori DeRemer



City Manager  
Jason Tuck

February 7, 2013

**File No. LDC-09-12** (Administrative Amendments):

***NOTICE OF DECISION***

On February 5, 2013, the City of Happy Valley City Council adopted LDC-09-12 which amended Title 16 of the City's Municipal Code - Land Development Code. The City Council's decisions were based on a recommendation from the Happy Valley Planning Commission, and information and testimony submitted by the public to the City Council.

Copies of the decision, Staff Report and Exhibits for File No. LDC-09-12 are available upon request.

This action of the City Council is subject to appeal to the State of Oregon Land Use Board of Appeals under ORS 197.830. An appeal of this decision must be filed within 21 days of the mailing of this Notice of Decision. If no appeal is filed by **Thursday, March 7, 2013 at 5:00 p.m.**, this decision shall be deemed final.

A handwritten signature in blue ink that reads "Michael D. Walter".

Michael D. Walter  
Economic & Community Development Director

cc: Jason Tuck, City Manager (via e-mail)  
All Interested Persons (via post)

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

CITY OF HAPPY VALLEY  
ORDINANCE NO. 433

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

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

WHEREAS, Application LDC-09-12 was a staff, Planning Commission and City Council initiated request to amend sections of the City's Municipal Code as detailed within Exhibit "A"; and

WHEREAS a Work Session was held before the City Council on September 4, 2012 in regard to specific issues in regard to "rooming houses" and a public hearing was held before the City of Happy Valley Planning Commission on January 8, 2013; and

WHEREAS, the Planning Commission recommended the City Council approve the changes to Title 16 of the Municipal Code as detailed in the Staff Report to the Planning Commission dated January 8, 2013; and

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

WHEREAS, the Council of the City of Happy Valley, Oregon, has determined that it is reasonable, necessary and in the public interest to make the proposed amendments as detailed within Exhibit "A"; and

WHEREAS, the Council hereby adopts the proposed amendments as detailed in Exhibit "A", as supported by the Findings of Fact in the Staff Report to the Planning Commission dated January 8, 2013, and as discussed at the regular meeting of the City Council on February 5, 2013; and

NOW, THEREFORE, based on the foregoing,

THE CITY OF HAPPY VALLEY ORDAINS AS FOLLOWS:

Section 1. The City of Happy Valley declares that the amendments to Title 16 of the City's Municipal Code be amended as set forth as part of Exhibit "A" and are fully incorporated herein.

Section 2. The City of Happy Valley declares that the Findings of Fact included within the Staff Report to the Planning Commission dated January 8, 2013 are hereby adopted in conjunction with this Ordinance.

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


This ordinance takes effect 30 days after adoption.

COUNCIL APPROVAL AND UNANIMOUS ADOPTION AT ONE MEETING: [February 5, 2013]

CITY OF HAPPY VALLEY

  
\_\_\_\_\_  
Mayor Lori DeRemer

ATTEST:

  
\_\_\_\_\_  
Marylee Walden, City Recorder

**NOTICE OF PUBLIC HEARING**  
**City of Happy Valley Planning Commission and City Council**

Notice is hereby given that the City of Happy Valley Planning Commission and City Council will hold public hearings on the following dates in regard to proposed Administrative Amendments to the Title 16 of the City's Municipal Code (Land Development Code)

- Date & Time:** Planning Commission, January 8, 2013, 7:00 p.m.  
City Council, February 5, 2013, 7:00 p.m.
- Hearing Location:** City Hall, 16000 SE Misty Dr., Happy Valley, OR 97086;
- File & Subject:** LDC-09-12 (Administrative Text Amendments to Title 16 of the City's Municipal Code).
- Proposal:** Administrative text amendments to a variety of Title 16 ("Development Code") sections.
- Location:** City Wide
- Applicant:** City of Happy Valley
- Applicable Criteria:** Chapter 16.67 of the City of Happy Valley's Municipal Code
- Staff Contact:** Michael D. Walter, Economic & Community Development Director  
503-783-3800

Interested parties are invited to attend this hearing or to submit comments in writing prior to the meeting time. Written testimony may be submitted in advance or in person at the hearing. Those wishing to present verbal testimony, either pro, con, or to raise questions, will be asked to speak after presentation of the reports.

Testimony should pertain to the applicable criteria. The decision will be made in accordance with said criteria, and may be appealed to the Land Use Board of Appeals. Failure to raise an issue in writing prior to or before the close of the written comment period or failure to provide sufficient specificity at the public hearing to afford the decision-making body an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based upon that issue. The applicant and any person who submits written comments shall receive notice of the decision.

The failure of the applicant to raise constitutional or other issues relating to proposed amendments without sufficient specificity to allow the decision-making body to respond to the issue precludes an action for damages in circuit court.

The decision-making criteria, application, and records concerning this matter are available at the City of Happy Valley City Hall at the above address during working hours (8:00 a.m. to 5:00 p.m. weekdays), please call for an appointment. For additional information, contact Michael D. Walter, Economic & Community Development Director, at the above address and phone number.

The meeting site is accessible to handicapped individuals. Assistance with communications (visual, hearing) must be requested 72 hours in advance by contacting Marylee Walden, City Recorder at the above phone number.

## EXHIBIT 'A'

### FINAL MUNICIPAL CODE TEXT AMENDMENTS

#### *“Chapter 5.04 BUSINESS LICENSES*

*[...]*

##### *5.04.130 Exemptions.*

*A. The following situations are specifically exempt from the requirement of obtaining a business license:*

*1. Wholesalers selling or delivering goods to merchants of the city for the purpose of resale. This exemption pertains only if the wholesaler does not maintain a place of business within the city and also does not engage in retail trade within the city;*

*2. Persons engaged in delivery of goods or services from points outside the city, providing sales contacts and actual sales take place outside the city;*

*3. Newspaper carriers;*

*4. Representative of public utilities;*

*5. Any city, county, state agency, special district, school district or other municipality;*

*6. Garage sales, yard sales and other similar activities. Such exemption shall not apply, however, if either of the following conditions are met:*

*a. More than two such sales take place within any calendar year at the same location,*

*b. The sale has a duration of more than seventy-two (72) consecutive hours.*

*7. The sale of personal assets such as a personal automobile, residence, appliance or other items, unless such sales are conducted on a regular and continuing basis as described in the preceding subsection (F);*

*8. Any individual who rents or leases one living unit in his or her place of residence is exempt from this chapter provided such place of residence is a single-family dwelling **or associated accessory dwelling unit (ADU)**;*

*9. Any business activity specifically exempt under Oregon state law.*

*B. Other exemptions shall be determined by the city manager on the basis of reasonableness on a case-by-case basis.*

##### *16.12.030 Definitions.*

*[...]*

***Household.** One or more persons related by blood, marriage, civil union, legal adoption or guardianship, plus not more than five additional persons, who live together in one dwelling unit; or one or more handicapped persons as defined in the Fair Housing Amendments Act of 1988, plus not more than five additional persons, who live together in one dwelling unit.*

*[...]*

***Rooming house.** A single-family dwelling, accessory dwelling unit (ADU) or either unit of a two-family dwelling (duplex), which is rented for a valuable consideration or wherein rooms with or without cooking facilities are rented for a valuable consideration to or occupied by between more than two and up to five (5) or more natural persons unrelated by blood, marriage or legal adoption to the owner or operator of the house. Foster children placed in a lawful foster family home, a community residential home with six or fewer residents, a nursing home, or a residential care facility shall not be considered a rooming house. Temporary gratuitous guests as used herein shall refer to natural persons*



occasionally visiting the single-family house for a short period of time not to exceed 30 days within a 90-day period.

16.22.020 Very low density residential zones.

[...]

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

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

<b>Land Use</b>	<b>R-40</b>	<b>R-20</b>	<b>R-15</b>
<b>Residential</b>			
One single-family frame dwelling, modular dwelling unit or manufactured home per lot	P	P	P
Single-family attached dwelling units, duplexes, multiple family units or manufactured housing, approved as part of a PUD application pursuant to Section 16.63.130	P	P	P
Accessory dwelling units complying with Section 16.44.050	P	P	P
Temporary manufactured home to allow for care of an aged or infirmed relative, provided that adequate water, sewage, disposal and fire protection are available, and that tongue, undercarriage and axles remain intact on the unit. Undercarriage wheels and supporting base must be covered with a full ground length sign-obscuring skirting around the entire circumference of the manufactured home.	C	C	C
Residential care home	P	P	P
Residential care facilities	C	C	C
Home occupation as defined in Section 16.12.030, per the provisions of Section 16.69.020	P	P	P
<b>Rooming Houses</b>	<b>X</b>	<b>X</b>	<b>X</b>
<b>Commercial</b>			
Commercial daycare facilities	C	C	C
Special event centers for hosting functions such as weddings, anniversary celebrations, corporate parties and similar events	C	C	C
<b>Institutional/Utilities</b>			
Public and semi-public buildings and functions	C	C	C
Public utility substations or other function	C	C	C
Cemeteries	C	C	C
Church, synagogue, temple or other place of worship	C	C	C
Public or private school(s)	C	C	C
<b>Other</b>			
Agriculture and related activities, not to include the commercial processing of any type of agricultural products, whether animal or vegetable	P	P	P
Public or private open spaces, parks and playgrounds, tennis courts and similar outdoor recreational activity areas and recreational buildings, facilities and grounds, which include fully or partially enclosed structures for the primary or secondary use	P	P	P

Land Use	R-40	R-20	R-15
Large scale recreational facilities such as golf courses, aquatic centers, aquariums, amusement parks and similar uses	C	C	C
Temporary use of a trailer, mobile home, or other building for a use incidental to construction work provided that: The maximum time period is six months, with a maximum extension for another six months; The trailer, mobile home, or other building is connected to an approved sewage disposal system; A building permit for a permanent structure has been issued; The temporary home or building shall be removed upon completion or abandonment of construction; and No reasonable alternative, such as the availability of nearby rental housing exists.	C	C	C
Wireless communication facilities, not to include antenna support structures, subject to the provisions of Section 16.44.020 of this title.	C	C	C
Construction of new streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P	P	P
Any accessory structure which is customarily incidental to any of the permitted uses, located on the same lot	P	P	P

[...]

#### 16.22.030 Low density residential zones.

[...]

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

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

Land Use	R-10	R-8.5	R-7
<b>Residential</b>			
One single-family frame dwelling, modular dwelling unit or manufactured home per lot	P	P	P
Single-family attached dwelling units, duplexes, multiple-family units or manufactured housing, approved as part of a PUD application pursuant to Section 16.63.130	P	P	P
Two-family attached dwelling units (duplexes) in a subdivision not approved as a PUD and not to exceed the allowable density of the district <sup>1</sup>	P	P	P
Multifamily dwellings not approved as a PUD. Density calculation as defined in Section 16.63.020 may be used where applicable	X	X	X
Accessory dwelling units complying with Section 16.44.050	P	P	P
Temporary manufactured home to allow for care of an aged or infirmed relative, provided that adequate water, sewage, disposal and fire protection are available, and that tongue, undercarriage and axles remain	C	C	C

<b>Land Use</b>	<b>R-10</b>	<b>R-8.5</b>	<b>R-7</b>
intact on the unit. Undercarriage wheels and supporting base must be covered with a full ground length sign-obscurating skirting around the entire circumference of the manufactured home.			
Residential care home	P	P	P
Residential care facilities	C	C	C
<b><u>Rooming Houses</u></b>	<b><u>X</u></b>	<b><u>X</u></b>	<b><u>X</u></b>
Manufactured home parks, subject to the provisions of Section 16.44.040	P	P	P
Home occupation As defined in Section 16.12.030, per the provisions of Section 16.69.020	P	P	P
<b>Commercial</b>			
Commercial daycare facilities	C	C	C
Special event centers for hosting functions such as weddings, anniversary celebrations, corporate parties and similar events	C	C	C
<b>Institutional/Utilities</b>			
Public utility substations or other function	C	C	C
Church, synagogue, temple or other place of worship	C	C	C
Public or private school(s)	C	C	C
<b>Other</b>			
Public or private open spaces, parks and playgrounds, golf courses, tennis courts and similar outdoor recreational activity areas and recreational buildings, facilities and grounds, which include fully or partially enclosed structures for the primary or secondary use.	P	P	P
Large scale recreational facilities such as golf courses, aquatic centers, aquariums, amusement parks and similar uses	C	C	C
Temporary use of a trailer, mobile home, or other building for a use incidental to construction work provided that: The maximum time period is six months, with a maximum extension for another six months; The trailer, mobile home, or other building is connected to an approved sewage disposal system; A building permit for a permanent structure has been issued; The temporary home or building shall be removed upon completion or abandonment of construction; and No reasonable alternative, such as the availability of nearby rental housing exists.	C	C	C
Wireless communication facilities, not to include antenna support structures, subject to the provisions of Chapter 16.44.020 of this title.	C	C	C
Construction of new streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P	P	P
Any accessory structure which is customarily incidental to any of the permitted uses, located on the same lot	P	P	P
NOTES:			

Land Use	R-10	R-8.5	R-7
<sup>1</sup> Location: Duplexes and triplexes must be located on a corner lot or adjacent to the intersection of two streets.			

[...]

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

[...]

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

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

Land Use	R-5	MUR-S
<b>Residential</b>		
One single-family frame dwelling or modular dwelling unit per lot	P	P
Two-family attached dwelling units (duplexes), and multiple-family dwellings up to a triplex. Density calculation as defined in Section 16.12.030 may be used where applicable. <sup>1</sup>	P	P
Accessory dwelling units, complying with Section 16.44.050	P	P
Residential care home	P	P
Residential care facilities	C	C
Manufactured home parks subject to the provisions of Section 16.44.040	C	P
<b>Rooming Houses</b>	<b>X</b>	<b>X</b>
<b>Commercial</b>		
Commercial daycare facilities	C	C
Home occupation as defined in Section 16.12.030, per the provisions of Section 16.69.020	P	P
Special event centers for hosting functions such as weddings, anniversary celebrations, corporate parties and similar events	C	C
<b>Neighborhood Commercial Uses</b>		
Coffee shops, cafes, sandwich shops and delicatessens, restaurants (no drive-through service allowed)	X	P <sup>2</sup>
Florists	X	P <sup>2</sup>
Grocery, food, specialty foods, and produce stores	X	P <sup>2</sup>
Laundromats and dry cleaners	X	P <sup>2</sup>
Personal services (e.g., barbershops, hair salons, spas)	X	P <sup>2</sup>
Yogurt and ice cream stores	X	P <sup>2</sup>
Video rental stores	X	P <sup>2</sup>
Retail and service commercial uses similar to those above but not listed elsewhere in this section upon administrative determination through the design review process.	X	P <sup>2</sup>
<b>Institutional/Utilities</b>		
Church, synagogue, temple or other place of worship	C	C

Land Use	R-5	MUR-S
Public or private school(s)	C	C
Utility facilities (telecommunication, pump stations, substations)	C	C
<b>Other</b>		
Public or private open spaces, parks and playgrounds, tennis courts, and similar outdoor recreational activity areas and recreational buildings, facilities and grounds, which include fully or partially enclosed structures for the primary or secondary use	P	P
Large scale recreational facilities such as golf courses, aquatic centers, aquariums, amusement parks and similar uses	C	C
Wireless communications facilities not to include antenna support structures, subject to the provisions of Chapter 16.44.020 of this title.	P/C	P/C
Construction of new streets and roads including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P	P
Any accessory structure, which is, customarily incidental to any of the permitted uses, located on the same lot	P	P
Uses similar to those upon administrative determination by the Planning Official	P/C	P/C
NOTES: <sup>1</sup> Location: Duplexes and triplexes must be located on a corner lot or adjacent to the intersection of two streets. <sup>2</sup> Neighborhood commercial uses subject to the provisions of Section 16.44.080.		

[...]

**16.22.050 High density residential—Attached.**

[...]

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

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

Land Use	SFA	MUR-A	VTH
<b>Residential</b>			
Single-family detached dwellings (existing)	P	P	P <sup>1</sup>
Single-family detached dwellings (new)	X	X	X
Single-family attached dwellings, (townhouses, rowhouses)	P	P	P
Two-family dwelling (duplex)	P	P	P
Three-family dwelling (triplex)	P	P	P
Multifamily dwellings containing four or more dwelling units or condominiums	X	X	X
Senior housing, congregate housing or nursing homes	X	X	X
<b>Rooming Houses</b>			
Accessory dwelling units (per Section 16.44.050)	P	P	P <sup>2</sup>
Home occupation (per Section 16.69.020)	P	P	P <sup>3</sup>
Bed and breakfast residencies	C	C	C
Rental information offices	P	P	P <sup>3</sup>

[...]

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

[...]

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

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

Land Use	MUR-M Multifamily	MUR-X Mixed Buildings
<b>Residential</b>		
Single-family detached dwellings	X	X
Attached dwellings, (townhouses, attached duplex, rowhouses)	P	P
Multifamily dwellings		
Low	P	P
Medium	P	P
High	P	P
Senior housing	P	P
Skilled nursing facility	C	C
Congregate housing	C	C
<b>Rooming Houses</b>	<b>X</b>	<b>X</b>
Accessory dwelling units (per Section 16.44.050)	X	X
Home Occupation (per Section 16.69.020)	P	P

[...]

**16.24.010 Institutional and Public Use (IPU) District.**

A.Purpose. The IPU District proposes to serve the need for the designation of areas for necessary institutional uses such as schools and churches, and public and semipublic uses such as parks, a local government center and other governmental and public service uses. This district may be located at any place throughout the City, based on a determination by the City that such areas are required. The Comprehensive Plan identifies the need for such uses throughout the City, with that need being fulfilled through this district.

B.Permitted Uses. Table 16.24.010-1 identifies the land uses that are allowed in the IPU District.

**Table 16.24.010-1 Institutional and Public Use (IPU) Permitted Uses**

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

Land Use	IPU
<b>Commercial—Retail Uses</b>	
Commercial daycare facilities	C
<b>Institutional</b>	
Cemeteries, mortuaries and funeral homes	C

<b>Land Use</b>	<b>IPU</b>
Church, synagogue, temple or cathedral or other places of worship	P
Schools, public or private	P
Service district functions and operations, including but not limited to fire district facilities, water district facilities, radio and television station production facilities, sanitary sewer and stormwater management facilities and road building and maintenance facilities, not to include fuel or other liquid or non-solid combustible material storage	P
Parks, public or private, but not including commercial recreation facilities	P
Public buildings, functions or operations, <b>including all military uses or activities</b>	P
Public utility substations or other functions	P
<b>Other</b>	
Broadcast towers or other antennae, not including wireless communication facilities <sup>1</sup>	C
Construction of new streets and roads, including the extensions of existing streets and roads, that are included with the adopted transportation system plan	P
Temporary use of a trailer, mobile home or other building for a use incidental to construction work, provided that: The maximum time period is six months, with a maximum extension for another six months; The trailer, mobile home or other building is connected to an approved sewage disposal system;	C
A building permit for a permanent structure has been issued; The temporary home or building shall be removed upon completion or abandonment of construction; and No reasonable alternative, such as the availability of nearby rental housing, exists.	
Wireless communication facilities subject to Section 16.44.020	C
Any permitted use which will include the storage of fuel or any form of combustible materials which exists in a liquid or non-solid form	C
NOTES: <sup>1</sup> The base of towers or other antennae may not be closer to any residential property line or street right-of-way than a distance equal to the height of the tower.	

[...]

**16.25.010 Industrial districts.**

A.Purpose.

1. Employment Center (EC). The purpose of the Employment Center (EC) District is to provide for a mix of employment opportunities, located where they are accessible by a variety of transportation modes, including transit services and safe and convenient pedestrian connections. These areas provide sites suitable for business and office parks, campus and light industrial uses, professional and corporate offices, medical offices and clinics, tech/flex businesses, creative arts and services, technical/vocational schools and other related businesses. Building types range from large single user campuses, multiple tenant business parks to multistory mixed-use buildings. Quality

design and a connected and walkable character of the surrounding environment will be provided. Housing is allowed when combined in vertical mixed-use buildings.

2. Industrial Campus (IC). Pursuant to Metro’s Urban Growth Management Functional Plan Title 4 for Regionally Significant Industrial Areas (RSIA) the purpose of the Industrial Campus District is to provide a ready supply of developable industrial land for the City of Happy Valley and the southeast metropolitan area. It seeks to promote economic development, job creation, sustainable businesses and green building practices, jobs-housing balance, land optimization and freight mobility by preserving large contiguous areas for industrial clusters near existing and planned residential areas and transportation corridors. In order to protect the viability and integrity of industrial land, this district is not intended for residential use and shall allow only limited retail and commercial components. The Industrial Campus District is intended to be a mix of, but not limited to, the following industries:

- a. Green building products and design;
- b. Advanced materials;
- c. Medical devices;
- d. Specialized software applications;
- e. Forestry and agricultural biotechnology;
- f. Nanotechnology;
- g. Recreational equipment/recreation technology;
- h. Corporate headquarters;
- i. Professional services;
- j. Specialty food processing;
- k. Transportation equipment/technology;
- l. Logistics.

B. Permitted Uses. Table 16.25.010-1 identifies the land uses that are allowed in the EC and IC Districts.

**Table 16.25.010-1 Industrial (EC, IC) Permitted Uses**

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

<b>Land Use</b>	<b>EC</b>	<b>IC</b>
<b>Residential</b>		
Pre-existing dwellings. Preexisting dwellings may be allowed to remodel or expand and shall not be subject to the provisions of Chapter 16.72	P	P
Home occupations in pre-existing dwellings	P	P
New residential uses	P <sup>1</sup>	X
<b>Commercial—Retail</b>		
Commercial day care	C	C
Entertainment, major event	X	X



<b>Land Use</b>	<b>EC</b>	<b>IC</b>
Hotels	C	X
Indoor health and recreation facilities, such as racquetball court, gymnasiums, health and exercise spas, swimming pools, and similar uses and associated facilities	C	C
Outdoor recreation, commercial	X/C <sup>9</sup>	X
Parking lot (when not an accessory use)	X	C/X <sup>7</sup>
Quick vehicle servicing or vehicle repair	C	P
Retail sales	P <sup>2</sup>	P <sup>3</sup>
Commercial service	P <sup>2</sup>	P <sup>3</sup>
Self-service storage	X	P/X <sup>7</sup>
<b>Commercial—Office</b>		
Offices	P	P <sup>4</sup>
Industrial <sup>5</sup>		
Industrial services—Fully enclosed	P	P
Industrial services—Not enclosed	C	P
Manufacturing and production and fabrication and assembly—Fully enclosed	P	P
Manufacturing and production and fabrication and assembly—Not enclosed	C	P
Research and development activities and laboratories—Fully enclosed	P	P
Research and development activities and laboratories—Not fully enclosed	C	P
Repair, finishing and testing—Fully enclosed	P	P
Repair, finishing and testing—Not fully enclosed	C	P
Distribution activities and warehousing and freight movement	P <sup>6</sup>	P <sup>8</sup>
Waste-related	X	C/X <sup>7</sup>
Wholesale activities	P <sup>2</sup>	P <sup>3</sup>
<b>Institutional</b>		
Basic utilities	P	P
Colleges	C <sup>2</sup>	X
Institutional uses; educational institutes and trade schools; art, music, or dance studios; radio and television studios, excluding transmission towers	C <sup>2</sup>	C
Public parks and open space—Pedestrian amenities	P	P
Public parks and open space—Parks and recreation facilities	C	P
Public parks, usable open space	P	P
Churches, synagogues, temples or places of worship	C <sup>2</sup>	X
Library, post office, community center, etc.		
Public and private schools (includes commercial day care, dancing and music schools)	C <sup>2</sup>	X
<b>Other</b>		
Agriculture—Animals, when an existing use as of May 5, 2009	P	P
Agriculture—Animals, when accessory to a permitted industrial use	X	P
Agriculture—Animals, when new use	X	X
Agriculture—Nurseries and similar horticulture (See also wholesale and retail uses)	C	P
Buildings and structures exceeding the height limits in Table 16.25.010-2	C	C

Land Use	EC	IC
Mining	X	C/X <sup>1</sup>
Radio frequency transmission facilities—Within height limit of district	P	P
Radio frequency transmission facilities—Exceeds height limit (freestanding or building-mounted facilities)	C	C
Rail lines and utility corridors	P	P
Temporary uses (limited to “P” and “C” uses), per Section 16.69.010	C	C
Transportation facilities (operation, maintenance, preservation, and construction in accordance with the City’s Transportation System Plan)	P	P
Wireless telecommunication facilities: wireless telecommunication facilities are subject to the requirements of Section 16.44.020 (Wireless Communication Facilities)	P	P
Any accessory use or structure, not otherwise prohibited, that the Planning Official or designee finds to be customarily accessory and incidental to a permitted use	P	P
Any use that the Planning Official or designee finds to be similar to one or more of those specified above	P/C	P/C

NOTES:

<sup>1</sup> Residential uses on upper floors of mixed use buildings are permitted.

<sup>2</sup> New single or multiple retail, commercial services, or institutional buildings shall not exceed thirty thousand (30,000) square feet gross leasable area on a single lot or parcel or contiguous lots or parcels. For the purposes of this limitation, parcels or lots separated by only a transportation right-of-way are considered to be contiguous. The use of any building, structure or land that was existing on or before July 17, 2012 or which was a legal use at the time of annexation may continue and may expand to add up to twenty (20) percent more floor area and ten (10) percent more land area on a site.

<sup>3</sup> Quick vehicle servicing or vehicle repair, retail sales, or commercial services uses are subject to the following limitations:

a. New quick vehicle servicing or vehicle repair, retail sales, or commercial services uses:

1. No single store, branch, agency or other outlet shall exceed three thousand (3,000) square feet in area (including buildings and outdoor storage and sales areas); and

2. On sites with multiple outlets, the cumulative area dedicated to these uses shall not exceed twenty thousand (20,000) square feet (including buildings and outdoor storage and sales areas);

b. Existing quick vehicle servicing or vehicle repair, retail sales, or commercial services uses and buildings: Notwithstanding subsection (a) above, the use of any building, structure or land that was existing on or before July 17, 2012 or which was a legal use at the time of annexation may continue and may expand to add up to twenty (20) percent more floor area and ten (10)

percent more land area on a site.

<sup>4</sup> Permitted as an accessory use—Executive and administrative offices must relate to the operation of the industrial use and may not exceed forty (40) percent of the total gross floor area.

<sup>5</sup> If not fully enclosed, must be located more than two hundred (200) feet from residential districts and petroleum storage and refining.

<sup>6</sup> Permitted as an accessory use—May not exceed twenty (20) percent of the total site area.

<sup>7</sup> Use is prohibited within the Rock Creek Employment Center Subdistrict as defined in Section 16.25.010(G).

<sup>8</sup> Within the Rock Creek Employment Center Subdistrict as defined in Section 16.25.010(G), use is permitted only as an accessory use—May not exceed twenty (20) percent of the total site area.

<sup>2</sup> **Outdoor recreation facilities without permanent buildings are allowed as a Conditional Use within the EC zone.**

[...]

## **ARTICLE 16.4 COMMUNITY DESIGN STANDARDS**

[...]

### **Chapter 16.40 DESIGN STANDARDS ADMINISTRATION**

### **Chapter 16.41 ACCESS AND CIRCULATION**

### **Chapter 16.42 LANDSCAPING, STREET TREES, FENCES AND WALLS**

### **Chapter 16.43 PARKING AND LOADING**

### **Chapter 16.44 SPECIAL STANDARDS FOR CERTAIN USES**

### **Chapter 16.45 SIGNS**

### **Chapter 16.46 HAPPY VALLEY STYLE DESIGN STANDARDS**

### **Chapter 16.47 OTHER DESIGN STANDARDS PROPERTY MAINTENANCE**

### **Chapter 16.48 INDUSTRIAL DESIGN STANDARDS**

[...]

#### **16.44.030 Model homes.**

A.Purpose. This section permits construction of model homes in conjunction with preliminary approval of a residential subdivision pursuant to Sections 16.63.050 through 16.63.070 of this title.

B.Process. A model home may be approved by the Planning Commission concurrently with an application for preliminary approval of a residential subdivision or subsequent to preliminary approval of a residential subdivision, following expiration of any appeals to the City Council and, if applicable, the Land Use Board of Appeals and prior to final plat approval. Model homes that are applied for subsequent to a preliminary subdivision approval shall be evaluated pursuant to a Type I procedure.

C. Approval Criteria. A model home may be constructed and occupied only for the purpose set forth in this section and consistent with its definitions prior to final plat recording and subject to the following approval criteria:

1. The lot and home foundation for the proposed model home must be surveyed by a person who is registered in Oregon as a land surveyor and holds a valid certificate consistent with state law. The surveys must establish the location of the model home structure consistent with the dimensional requirements of the underlying development district pursuant to Articles 16.2 and 16.3 or as otherwise provided in this title.
2. The proposed model home shall be in compliance with all applicable dimensional requirements including but not limited to maximum height, maximum lot coverage, minimum setbacks and minimum lot size.
3. Adequate parking shall be available to serve the model home site. No model home may be occupied where on-street parking is not available on a public right-of-way or private street that is immediately adjacent to the lot. Where adjacent on-street parking is inadequate, additional temporary off-street parking may be required. Temporary off-street parking must be removed and adequate landscaping installed consistent with this title prior to any sale of the model home or lot. At least four parking spaces shall be provided for each model home.
4. Adequate emergency vehicle access shall be provided to each model home lot, as approved by the City Public Works Director.
5. Adequate water supply for fire fighting, as approved by the City Public Works Director, shall be provided to each model home lot prior to installation of combustible materials.
6. All required public and private utilities within the public right-of-way or private street shall be installed ~~and at least a first lift of asphalt provided to the model home lot~~ prior to occupancy of the model home. All utility installation must be inspected and approved by the City consistent with this title. This provision is in addition to any other requirements for public utility improvements as may be provided in this title or other applicable law.
7. The number of model homes in a residential subdivision may be allowed as follows:
  - a. Between one and fifty (50) residential lots, two model home;
  - b. Between fifty-one (51) and one hundred (100) residential lots, three model homes;
  - c. Between one hundred one (101) and one hundred ninety-nine (199) residential lots, six model homes;
  - d. Two hundred (200) or more residential lots, eight model homes.
8. If more than one model home is proposed, the lots on which the model homes are to be located shall be contiguous to one another and within the first phase of development.

9. No variances under Chapter 16.71 shall be permitted to accommodate the model home.

10. ~~The applicant and the City have entered into the agreement required by subsection D, below.~~

~~D. Agreement Required. Prior to issuance of any building permit for a model home, the applicant and the City shall enter into an agreement as approved by the City Attorney. The agreement shall at a minimum include language that is substantially similar to the following:~~

~~1. The applicant agrees to provide financial security to correct any violations of the preliminary approval, or the Happy Valley Land Development Code resulting from construction of a model home. The financial security shall be in an amount approved by the Public Works Director based on the estimated costs necessary to demolish, relocate, remove or such other remedial action as may be required by the City to correct a potential violation. In no case shall the security be less than fifty (50) percent of the approximate value of the home and the lot as determined by the City.~~

~~2. The applicant and any person or entity with an interest in or option on the property agree to defend the City from any and all third party liability which in any way arises from the City's approval of a model home.~~

~~3. The applicant and any person or entity with an interest in or option on the property agree to waive any and all claims against the City for approving a model home under this section.~~

~~4. The applicant and any person or entity with an interest in or option on the property agree to correct any violations consistent with subsection E, below.~~

~~5. The applicant and any person or entity with an interest in or option on the property agree to allow the City to enter onto the property and take any remedial action on the lot as may be required by subsection E, below.~~

~~6. The applicant and any person or entity with an interest in or option on the property agree to waive any right to a claim against the City for any remedial action taken including but not limited to use of the security provided for such remedial action. The City may include additional language in the agreement as needed to address issues on a case-by-case basis. A copy of this agreement shall be provided by the applicant to any subsequent purchaser of the property prior to entering into an agreement to purchase the property.~~

**DE.** Remedial Action. In the event the City determines the model home has encroached on a property line or violated any applicable standards, the following steps shall be taken to correct the violation:

1. The City shall provide notice to the applicant identifying the violation and requesting correction of the violation within sixty (60) days of the date of the notice. The City may require more or less time on a case-by-case basis. The time required to cure the encroachment does not extend or modify the timeline for submitting a final plat or the termination of the model home approval as set forth in Section 16.44.030.

2. The applicant shall correct the violation within the time provided in the notice unless otherwise agreed to by the City in writing.
3. In the event the applicant fails to correct the violation to the satisfaction of the City within the time provided in the notice, the City may at its discretion use the security provided pursuant to subsection (D)(1) above, for purposes of correcting the violation.
4. The City will not accept an application for a final plat until such time as the violation is corrected. In the event an application is already filed before the violation is detected, the City shall deny the final plat as not consistent with the preliminary approval unless the violation is corrected.

**EF.** Termination of Model Home Approval. The model home use shall be discontinued no later than two years from the date of the recording of the final plat of the entire subdivision or, where there is phasing, the first phase of the subdivision. Approval may be extended for a maximum of one additional year by the Planning Official or designee with the concurrence of the building official and public works director.

[...]

**16.44.055 Accessory uses and structures.**

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

A. Fence limitations shall be as follows:

1. No fence constructed or installed on an interior or rear property line shall exceed the height of six feet unless said fence is structurally engineered and receives building permit approval. In such cases, a fence may be constructed to a maximum height of eight feet. Evergreen or shrubbery planting may be maintained on such property lines when the neighbor is agreeable thereto.
2. A fence located in a required front yard shall not exceed a height of two and one-half feet measured from the curb elevation or required side yard on the street side of a corner lot, forward of the front yard setback, shall not exceed a height of six feet. However, in all scenarios involving inadequate clear vision caused by fence construction on a corner lot, the fence shall either be relocated, or shall be limited to a maximum height of two and one-half feet measured from the curb elevation. Where adequate vision clearance exists at driveways, the Planning Official or designee may set the height of said fence.
3. Fence height restrictions do not apply to public utility fences or to chain link fences enclosing school and public playgrounds.

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

C. A separated garage, accessory storage structure larger than a “shed” (two hundred (200) square feet in size and fourteen (14) feet in height), play structure, workshop building, etc., may be constructed accessory to a primary dwelling. Accessory structure building height, as measured by this title, shall not exceed fifty (50) percent of the height of the primary

structure or twenty-six (26) feet, whichever is higher. Accessory structures require conformance with the underlying development district setbacks, lot coverage and all other applicable development standards.

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

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

- a. The method of entering the pool is a removable ladder or stair that is moved a safe distance from said pool when the pool is not in use.
- b. If a deck or walkway is constructed around aforesaid pool that is over thirty (30) inches above grade, this deck or walkway must be equipped with a guardrail with either vertical or horizontal members that will not permit passage of a nine-inch sphere. If no fence with self-closing and locking gates encloses the yards, one must be installed on the stair or ladder that serves as entry onto the deck or walkway. If more than one entry to deck or walkway is provided, all entries shall have self-closing and locking gates.
- c. The pool must be set and maintained as pursuant to manufacturer's instructions.

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

- a. The pool must be set and maintained as pursuant to manufacturer's instructions;
- b. Any pool less than forty-eight (48) inches in height shall be considered to be at ground level installation and treated as same for protective fencing; or
- c. The pool and/or spa and hot tub must be covered by a power safety cover that complies with ASTM F 1346 as listed in **Appendix G of the Oregon Residential Specialty** ~~Section B106 of the International Residential Code (2000)~~ for one and two family dwellings.

E. An accessory building (commonly referred to as a "shed") measuring no greater than two hundred (200) square feet in size and fourteen (14) feet in height may be located within a required rear yard or the required side yards behind the front building line of the primary structure, provided that a minimum three-foot setback is maintained between the accessory structure and any pertinent rear or side property line.

F. **A covered front porch that equals a minimum of 20 percent of the lineal frontage of the front building line may be placed in front yard of a residence provided that no part of the porch (excluding eaves) is closer than 15 feet to a front property line.** An unenclosed covered patio or a covered deck enclosed only by railings may be placed in the rear yard of a residence provided that no part is closer than ten (10) feet to a rear property line. An uncovered deck constructed thirty (30) inches or higher above grade may be located within the required rear yard or the required side yard behind the front building line

provided that it may not be closer than three feet to a property line. An uncovered deck constructed lower than thirty (30) inches above grade may be built up to a property line.

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

1. Lighting Plan. The applicant shall submit a photometric lighting plan delineating the relationship between exterior lighting, the subject site, and surrounding residential properties within two hundred (200) feet.
2. Storm Water Management. The applicant shall be subject to the rules and requirements of Clackamas County Service District No. 1 (Water Environment Services).
3. Screening and Buffering. For athletic courts or facilities over two thousand (2,000) square feet in size, the applicant shall provide a minimum ten (10) foot wide landscaped buffer between the athletic court or facility and abutting residential properties. For all athletic courts or facilities, the applicant shall provide a landscape plan that illustrates planting materials, sizes, and overall design (which may include lawn), to include a minimum six-foot tall solid wood fence, cyclone fence with slats, or a solid vegetative screen on property lines surrounding the athletic court or facility that abut residential development.

[...]

#### **16.50.080 Construction plan approval, bonding and assurances.**

A. Plan Approval and Permit. No public improvements, including sanitary sewers, storm sewers, streets, sidewalks, curbs, lighting, parks, or other requirements shall be undertaken except after the plans have been approved by the City, permit fee paid, and permit issued. The permit fee is required to defray the cost and expenses incurred by the City for construction and other services in connection with the improvement. The permit fee shall be set by City Council.

B. Bonding and Assurances.

1. Performance Bonds for Public Improvements. The developer or representative, prior to obtaining City approval to construct any public improvements, shall, by agreement with the City, carry out the minimum improvements as required by the City's implementing ordinances and subject conditions of approval by one of the following methods:
  - a. By installing the required improvements, subject to inspection and final review of the City, prior to the approval of any structural building permits; or
  - b. By furnishing the City with a performance bond or other financial guarantee, such as an irrevocable letter of credit or set aside account, satisfactory to the City. The performance bond or other financial guarantee is required to be at one hundred twenty-five (125) percent of the City determined or agreed upon construction value **for improvements within the public right-of-way.**



Performance guarantees for erosion control and site stabilization outside of the public right-of-way performance guarantees, the covered amount shall equal twenty-five (25) percent of the on-site construction value as determined or agreed upon by the City.

c. If the developer fails to carry out the provisions of the minimum public improvement requirements or any conditions of approval, and the City has unreimbursed expenses resulting from such failure, the City shall place a claim against the bond or other security for reimbursement, including but not limited to, staff time and mileage. If the amount of the bond or other security exceeds the expenses incurred by the City, it shall release the remainder. If the amount of the bond or other security is less than the expenses incurred by the City, the developer shall be liable to the City for the difference, and a lien may be filed by the City against the property to insure payment;

d. Any and all improvements that are not under City jurisdiction shall be improved pursuant to the procedures established by the responsible jurisdiction or service provider.

[...]

#### **16.63.080 Final plat submission requirements and approval criteria.**

A. Submission Requirements. Final plats shall be reviewed and approved by the City prior to recording with Clackamas County. The applicant shall submit the final plat within two years of the approval of the preliminary plat as provided by Section 16.63.040. Specific information about the format and size of the plat, number of copies and other detailed information can be obtained from the Planning Official.

B. Approval Criteria. The Planning Official and City Engineer shall review the final plat and shall approve or deny the final plat based on findings regarding compliance with the following criteria:

1. The final plat is consistent in design (e.g., number, area, dimensions of lots, easements, tracts, right-of-way) with the approved preliminary plat, and all conditions of approval have been satisfied;
2. All public improvements required by the preliminary plat have been installed and approved by the City Engineer or appropriate service provider (e.g., road authority). Alternatively, **if 80 percent of the required public improvements are complete and the developer has provided a performance guarantee for the incomplete work** in accordance with Section 16.63.100, **the final plat may be approved**;
3. The streets and roads for public use are dedicated without reservation or restriction other than reversionary rights upon vacation of any such street or road and easements for public utilities;
4. The streets and roads held for private uses have been approved by the City as conforming to the preliminary plat;
5. The plat and deed contain a dedication to the public of all public improvements, including but not limited to streets, public pathways and trails, access reserve strips, parks, sewage disposal storm drainage and water supply systems;

6. The applicant has provided copies of all recorded homeowners association Covenants, Conditions and Restrictions (CC&Rs); deed restrictions; private easements and agreements (e.g., for access, common areas, parking, etc.); and other recorded documents pertaining to common improvements recorded and referenced on the plat;
7. The plat complies with the applicable sections of this Code (i.e., there have been no changes in land use or development resulting in a Code violation since preliminary plat approval);
8. Certification by the City or service district, as applicable, that water and sanitary sewer service is available to every lot depicted on the plat; or bond, contract or other assurance has been provided by the subdivider/partitioner to the City that such services will be installed in accordance with Chapter 16.50, Public Facilities, and the bond requirements of Section 16.63.100. The amount of the bond, contract or other assurance by the subdivider/partitioner shall be determined by a registered professional engineer, subject to review and approval by the City;
9. The plat contains an affidavit by the surveyor who surveyed the land, represented on the plat to the effect the land was correctly surveyed and marked with proper monuments as provided by ORS Chapter 92, indicating the initial point of the survey, and giving the dimensions and kind of such monument and its reference to some corner established by the U.S. Geological Survey, or giving two or more permanent objects for identifying its location.

[...]

**16.63.090 Public improvements required.**

Before City approval is certified on the final plat, all required public improvements shall be installed, inspected, and approved. Alternatively, **if 80 percent of the required public improvements are complete**, the subdivider/partitioner shall provide a performance guarantee **for the incomplete work**, in accordance with Section 16.63.100.

[...]

**16.67.070 Annexations.**

A. Except as provided in subsection B of this section, when a property or area is annexed to the City from unincorporated Clackamas County with an accompanying Clackamas County Comprehensive Plan designation and zone, the action by the City Council to annex the property or area shall include an ordinance to amend the City's Comprehensive Plan map/zoning map to reflect the conversion from the County designation/zone to a corresponding City designation/zone, as shown in Table 16.67.070-1 below.

**Table 16.67.070-1 Land Designation Conversion Table**

<b>Clackamas County Zone</b>	<b>City of Happy Valley Zone</b>
<b>Urban/Rural Residential</b>	
R-2.5	SFA
R-5	R-5
R-7	R-7
R-8.5	R-8.5

R-10	R-10
R-15	R-15
R-20	R-20
MR-1	MUR-M1
MR-2	MUR-M2
HDR	MUR-M3
RA-2	R-15
FU-10	FU-10*
<b>Natural Resources</b>	
EFU	EFU*
<b>Commercial</b>	
NC	MUE
C-2	MCC
C-3	MCC
RCC	MCC
RCO	MUC
OC	CCC
RCHD	MUR-M2
OA	MUC
PMU-6	RCMU
<b>Industrial</b>	
I-2	IC
I-3	IC
BP	EC
<b>Special Districts</b>	
OSM	IPU
<b>Sunnyside Village</b>	
VR-4/5	R-5
VR-5/7	R-5
VCS	IPU
VA	MUR-M1
VO	VO
VTH	VTH

\*Annexation of these zoning districts would require the creation of a new Comprehensive Plan designation/zoning district within the City that would **be determined by the Planning Official based on surrounding Comprehensive Plan designations/zoning districts and a Transportation Planning Rule-compliant Traffic Impact Analysis** mirror the applicable Clackamas County designation/zone.

B. When an unincorporated property within the East Happy Valley Comprehensive Plan area, Aldridge Road Comprehensive Plan area, or the Rock Creek Mixed Employment Comprehensive Plan area is annexed to the City, the property shall be rezoned to the applicable zoning designation in the Comprehensive Plan pursuant to the applicable requirements of the Land Development Code.

C. For any proposed annexation to the City, application shall be made directly to the City of Happy Valley on the appropriate forms and accompanied with the required fee. Upon receipt of a copy of the form, the City shall schedule a public hearing before the City Council. The City may utilize any lawful annexation process under state, regional or local law, including the expedited annexation process established in the Metro Code. An expedited annexation process shall be sent directly to the City Council for review. Expedited annexations shall be processed as an ordinance pursuant to the City of Happy Valley Charter.

D. For any proposed deannexation from the City, application shall be made directly to the City of Happy Valley on the appropriate forms and accompanied with the required fee. Upon receipt of a copy of the form the City shall schedule a public hearing before the City Council.

[...]

#### **16.69.020 Home occupation permits.**

A. Purpose. The purpose of this section is to encourage those who are engaged in small commercial ventures which could not necessarily be sustained if it were necessary to lease commercial quarters or which, by the nature of the venture, are appropriate in scale and impact to be operated within a residence. Home occupations are encouraged for their contribution in reducing the number of vehicle trips often generated by conventional businesses. In addition, the purpose of this section is to establish approval criteria and standards to ensure that home occupations are conducted as lawful uses which are subordinate to the residential use of the property and are conducted in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents. **More than one business activity constituting two or more home offices shall be allowed on one property only if the multiple home offices meet all required limitations associated with outside volunteers or employees; clients or customers per day; and, the combined floor space of the business activities does not exceed the limitation of space imposed in Section 16.69.020.B.6.g. Each business activity shall also have separate City business license;**

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

1. Short term personal or fundraising sales (such as a garage sale or the sale of an individual personal item, fruit, drink or dessert sales by individuals, including minors, or similar sales) from a residence. The maximum duration of garage/yard sales is three consecutive days and/or ten (10) days total in a calendar year;
2. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises;
3. Hobbies which do not result in payment to those engaged in such activity;
4. Proven nonconforming home occupations as pursuant to Chapter 16.72 (Nonconforming Uses, Structures and Lots);

5. Residential care homes that are protected by the Federal Fair Housing Act, and may have characteristics of a home occupation permit are exempt from the home occupation permit process due to state and federal law;
6. Home offices that are undertaken only by the principal occupant(s) of a residential property that include the following characteristics:
  - a. No outside volunteers or employees to be engaged in the business activity other than the persons principally residing on the premises;
  - b. No exterior signs which identify the property as a business location;
  - c. No more than three clients or customers to visit the premises per day for any reason;
  - d. No exterior storage of materials;
  - e. 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.;
  - f. No offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the operation;
  - g. **No utilization of** ~~The home occupation shall be operated entirely within the dwelling unit or a conforming accessory structure. The home occupation and associated storage of materials and products shall not occupy more than fifty (50) percent of the combined residence and accessory structure gross floor area. The indoor storage of materials or products shall not exceed the limitations imposed by the provisions of the building, fire, health and housing codes;~~
  - h. ~~There shall be n~~**No change in the most current Oregon Residential Specialty One and Two-Family Dwelling (CABO) Code occupancy classification of the dwelling unit or any portion of the dwelling unit, including the garage;**
  - i. ~~More than one business activity constituting two or more home offices shall be allowed on one property only if the combined floor space of the business activities does not exceed the limitation of space imposed in subsection (c) of this section. Each business activity shall also have separate City business license;~~
  - j. No home office shall require any on- or off-street parking other than that normally required for a residence. In addition, no commercial vehicles (as defined in Section 16.12.030) of any kind shall be utilized in conjunction with a home office.

Any home office that exceeds the parameters of these provisions, as determined by the Planning Official based on answers to the home occupation permit questionnaire, site visits, or other evidence, shall be required to apply for a home occupation permit.

C. Nonconforming Uses. Ongoing home occupations may be granted nonconforming status provided that they were:

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

D. Governing Regulations. Nonconforming home occupations will be regulated as a nonconforming situation, pursuant to the following:

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

E. Prohibited Home Occupations. The following uses are not allowed as home occupations:

1. Auto-body repair and painting;
2. On-going mechanical repair conducted outside of an entirely enclosed building;
3. Junk and salvage operations;
4. Storage and/or sale of fireworks;
5. Ambulance service;
6. Animal hospital or veterinary services;
7. Any activity involving on-site retail sales is prohibited, except that the sale of items that are incidental to a permitted home occupation is allowed. For example, the sale of lesson books or sheet music from music teachers, art or craft supplies from arts or crafts instructors, computer software from computer consultants, and similar incidental items for sale by home business are allowed.

F. Home Occupations Defined. A separate home occupation permit and/or fee are required for each property on which a home occupation is undertaken. For the purposes of this section, "home" refers to the residential location, including a single-family dwelling unit, accessory dwelling unit, garage, accessory structure, multifamily unit, condominium unit, etc. In addition to the general criteria outlined in subsection E of this section, home occupations shall observe the following additional standards.

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

1. One nonilluminated sign, not exceeding one and one-half square feet, which shall be attached to the residence or accessory structure or placed in a window;
2. No more than three outside volunteers or employees who are not a principal resident of the premises;
3. No more than six daily customers or clients. Customers and clients may not visit the business between the hours of 10:00 p.m. and 8:00 a.m. and shall not generate excessive traffic or monopolize on-street parking (the generation of excessive traffic or

monopolization of on-street parking shall be at the sole discretion of the Planning Official or designee);

4. For residential properties under two acres in size, storage of materials, goods, and equipment, including no more than two commercial vehicles associated with the Class B home occupation and utilized for commercial purposes, shall be screened entirely from view from any adjacent public right-of-way. Storage shall not exceed twenty-five (25) percent of the total lot area and shall not occur within the front yard setback. For residential properties over two acres in size, storage of materials, goods, and equipment, including no more than four commercial vehicles associated with the Class B home occupation and utilized for commercial purposes, shall be screened entirely from view from any adjacent public right-of-way.

5. Off-Street Parking. Two on-site parking spaces shall be provided for the home occupation in addition to those spaces already required for the dwelling. No more than two customer vehicles may visit the home occupation at any one time and these must use the legal, designated parking spaces outside.

6. Kennels, animal boarding, and commercial animal breeding activities, though the minimum land area (either by lease or ownership) associated with the Class B home occupation that includes these uses shall equal one acre of land, and the total number of animals boarded at any one time shall not exceed twenty-five (25).

**7. Change of the Oregon Residential Specialty occupancy classification of the dwelling unit or any portion of the dwelling unit, including the garage. For example, in the installation of a commercial kitchen or commercial appliances.**

G. Permit Procedures for Home Occupations.

1. Home Occupation Permit. A home occupation permit will be processed by means of a Type III quasi-judicial procedure, and is subject to review by the Planning Commission, pursuant to the requirements of Chapter 16.61 (Types of Review Procedures).

2. Conditions of Approval. Staff may recommend, and the Planning Commission may impose, conditions upon the approval of a home occupation permit to ensure compliance with the requirements of this chapter. These conditions may include, but are not limited to, the following:

- a. Further limiting the hours, days, place and manner of operation;
- b. Requiring site and building design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;
- c. Requiring additional building setbacks, and increased lot area, depth or width;
- d. Further limiting the building area and outdoor storage used by the home occupation and restricting the location of the use on the site in relationship to adjoining uses;
- e. Designating the size, number, location and design of vehicle access points;

- f. Requiring street right-of-way to be free at all times of vehicles associated with the home occupation;
- g. Requiring landscaping, buffering and/or screening, of the home occupation from adjoining uses and establishing standards for the continued maintenance of these improvements;
- h. Requiring storm drainage improvements, and surfacing of parking and loading areas;
- i. Limiting the extent and type of interior or exterior building remodeling necessary to accommodate the home occupation;
- j. Limiting or setting standards for the location and intensity of outdoor lighting;
- k. Requiring and designating the size, height and location of fences and materials used for their construction;
- l. Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;
- m. Limiting the type and number of vehicles or equipment to be parked or stored on the site; and
- n. Any other limitations which the staff and Planning Commission considers to be necessary or desirable to make the use comply with this section.
- o. Any limitations or conditions imposed by the City's service providers, including but not limited to Sunrise Water Authority, Clackamas Fire District #1, CCSD#1, CCSD#5, etc.

H.Revocation and Expiration of Home Occupation Permits. Grounds for Revocation. The Planning Official or designee may:

1. Revoke a home occupation approval if the conditions of approval have not been or are not being complied with and the home occupation is otherwise being conducted in a manner contrary to this chapter.
2. The Planning Official or designee shall approve the use as it exists, revoke the home occupation permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this section after reviewing a complaint. Complaints may be originated by the City of Happy Valley or the public. Complaints from the public shall clearly state the objection to the home occupation, such as:
  - a. Generation of excessive traffic;
  - b. Exclusive use of on-street parking spaces;
  - c. Other offensive activities not compatible with a residential neighborhood.
3. Cessation of Home Occupation Pending Review. If it is determined by the Planning Official or designee in exercise of reasonable discretion, that the home occupation in question will affect public health and safety, the use may be ordered to cease pending Planning Commission review and/or exhaustion of all appeals.



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

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

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

1. The person wishing to engage in a home office answers the questions within the home occupation permit questionnaire and is determined to be exempt from the home occupation permit process; or

2. The applicant for a home occupation has been approved and the application certifies that the home occupation will be operated in strict compliance with the provisions of this chapter and the conditions of approval.



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