## AN ORDINANCE OF THE CITY OF OREGON CITY AMENDING THE OREGON CITY MUNICIPAL CODE TITLE 16 - LAND DIVISIONS AND TITLE 17 - ZONING

**WHEREAS**, the City of Oregon City Planning Division reviews and regulates the use of private and public property by applying the Oregon City Municipal Code; and

**WHEREAS**, the Oregon City Municipal Code contains development standards for private and public development and construction; and

**WHEREAS**, the Planning Division has written amendments to the Oregon City Municipal Code modifying the development standards for subdivisions and for non-single family development, and amendments to administration and procedures for development review; and

**WHEREAS**, the amendments were created with input from the public, Citizen Involvement Committee, Planning Commission, and Development Stakeholders Group; and

WHEREAS, the amendments will provide greater certainty for developers and property owners; and

**WHEREAS,** the amendments will result in greater transparency within the Oregon City Municipal Code; and

**WHEREAS**, the City's Comprehensive Plan anticipates the need for amendments from time to time, in order to maintain a balance of predictability for developers and neighborhood livability for residents.

#### NOW, THEREFORE, THE CITY OF OREGON CITY ORDAINS AS FOLLOWS:

**Section 1.** The City hereby amends the portions of the existing Oregon City Municipal Code Title 16, entitled Land Divisions; and Title 17, entitles Zoning; which are attached hereto as Exhibit 'A'.

**Section 2.** The Commission adopts the "Staff Report and Recommendation for Legislative File: L 17-04" that are attached hereto as Exhibit 'B' and incorporated herein to support the City's decision.

**Section 3.** Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

**Section 4.** Effectiveness. This Ordinance shall take effect 30 days from the date of adoption.

Ordinance No. 18-1005 Effective Date: May 18, 2018 Page 1 of 2 Read for the first time at a regular meeting of the City Commission held on the 18<sup>th</sup> day of April, and the City Commission finally enacted the foregoing Ordinance this 2<sup>rd</sup> day of May, 2018.

DAN HOLLADAY, Mayor

Attested to this 2nd day of May 2018:

Kattie Riggs, City Recorder Jaime Reed, Actim Approved as to legal sufficiency:

City Attorney

Attachments:

Exhibit A – Amended Sections of the Oregon City Municipal Code Exhibit B – Planning Department Staff Report and Exhibits

# Proposed Changes to the Oregon City Municipal Code

Note language subject to change throughout the review process. Code additions have <u>underlines</u>, extractions have <del>strike through</del>.

# April 5, 2018

Oregon City Municipal Code Section	Summary of Change	Explanation
16.12.050	<ul> <li>Amend lot averaging provisions in subdivisions for the following: <ul> <li>Lot sizes allowed to be 10% smaller than zone average rather than 20%</li> <li>Cap the total number of lots that can be smaller than the zone average to 25%.</li> <li>Remove Powerline easements from calculation of net developable area</li> </ul> </li> </ul>	Concerns that the provision allowed for too many lots to be below the zoning minimum and the lot sizes could be too small.
17.04.154	Add definition of Building.	Clarify the definition of "building" should be directed to the definition of "structure".
17.04.420	Increase the number of children a family daycare provider may care for from 13 to 16.	Per ORS 329A.440(4), a family daycare provider can have up to 16 children, not 13.
17.04.812	Create definition of "net leasable area".	Net leasable area is used to calculate parking requirements.
17.29.020	Clarify that single and two-family units are permitted when in conjunction with and located in the same building as another permitted use in the zone. This applies to NC, C, MUC-1, MUC-2 and MUD.	Clarifies the intent of the code.
17.49.080	Clarify minimal temporary disturbances.	Clarification of temporary minor disturbance areas.
17.50.030.B 17.50.030.C 17.50.030.D 17.50.030.F	Clarify noticing for Type II-IV processes. Specify that decisions, completeness reviews, appeals, and notices in this Chapter shall be calculated according to OCMC Chapter 1.04.070 and shall be based on calendar days, not business days.	Provides clarification and amends Table 17.50.030 to match code language.
	Amends Table 17.50.030 to match code language for reconsiderations, Historic Review, Extensions, and Natural Resource Overlay District Review.	
17.50.30.B 17.50.120 17.50.190	Clarify who has standing to file an appeal as those who participated orally or in writing in the initial decision.	Clarifies who has standing to appeal, removes reference to state statute, and eliminates inconsistencies in code.
17.52.020.C.4	Allow reduction of minimum parking by 10% if adjacent to a transit route or near a transit stop.	A similar reduction was inadvertently removed from the code.

17.58.040	Clarified that nonconforming upgrades are	Clarify when nonconforming upgrades are required.
17.58.040.C	required for increases to the square footage of a	cianty when noncomorning apgrades are required.
17.58.040.C.2	building and/or site improvements which include	
171001010101012	installation of an additional off-street parking	
	stall.	
17.62.035.A.2.a	Clarify that any size demolition qualifies as a	Corrects an unintended provision of previous code
17.62.035.A.2.b	Type I Minor Site Plan and Design Review.	amendments.
17.62.035.A.2.u		
17.62.035.A.2.v	Clarify tree removal as a Type I Minor Site Plan	Applicants could not clearly tell that tree removal
	and Design Review.	was included in landscaping which was already a
		Type I review.
17.62.050.A.1.c	Exempt landscaping tree removal and/or	Streamline tree and landscape review.
	replacement from submitting a plan by a	
	landscape architect if the new species is on an	
	approved tree list. Allow certified landscape	
	designer, arborist, or nurseryman to approve of	
	projects less than 500 sq. ft. rather than a	
	landscape architect.	
17.62.050.A.1.d	Remove requirement for 10% landscaping for	The code and specific zoning designations provide a
	major remodeling.	landscaping minimums more appropriate to zoning
		designations.
17.62.050.A.20.d	Remove requirement which conflicts with code	Remove section which was corrected with the
	section requiring all commercial mechanical	adoption of Type I Site Plan and Design Review.
	changes to be a Type I Site Plan and Design	
	Review.	
17.62.050.A.23	Clarify connection between development and	Clarify code requirements.
	nonconforming upgrades.	
17.62.065.D	Remove redundant sections and conflicting	Streamline and clarify language, remove blub
	standards.	requirements to allow emerging technologies.
	Remove bulb requirements.	
	Remove standard related to fixture	
	requirements.	
17.80	Update Communication Facilities chapter to	Amend code to comply with 2012 ruling
	allow a quicker review for some projects.	

## 16.12.050 - Calculations of lot area Lot Size Reduction.

<u>Up to 25% of the lots in a</u>A subdivision in the R-10, R-8, R-6, R-5, or R-3.5 dwelling district may include lots that are <u>be up to twenty ten</u> percent less than the required minimum lot area of the applicable zoning designation provided the <u>lots within the</u> entire subdivision on average meet<del>s</del> the minimum site area requirement of the underlying zone. <u>Any area within a powerline easement on a lot shall not count towards the lot area for that lot.</u>

The average lot area is determined by <u>first</u> calculating the total site area devoted to dwelling units, <u>subtracting the powerline easement areas</u>, and dividing that figure by the proposed number of dwelling lots.

Accessory dwelling units are not included in this determination nor are tracts created for non-dwelling unit purposes such as open space, stormwater tracts, or access ways.

A lot that was created pursuant to this section may not be further divided unless the average lot size requirements are still met for the entire subdivision.

When a lot abuts a public alley, an area equal to the length of the alley frontage along the lot times the width of the alley right-of-way measured from the alley centerline may be added to the area of the abutting lot in order to satisfy the lot area requirement for the abutting lot. It may also be used in calculating the average lot area.

17.04.154 – Building. "Building" means structure.

**17.04.420** - Family day care provider. "Family day care provider" means a day care provider who regularly provides day care to fewer than thirteen sixteen children, including the children of the provider, regardless of full-time or part-time status, in the provider's home in the family living quarters. Provisions of day care to thirteen sixteen or more children in the home of the provider shall constitute the operations of a "day care facility," as defined in this chapter, and shall be subject to the requirements of this title for day care facilities. A family day care provider to ten or more children-shall satisfy the certification requirements of the children's services division Office of Child Care.

#### 17.04.812 Net Leasable Area.

Actual square-footage of a building or outdoor area that may be leased or rented to tenants, which excludes parking lots, common areas, shared hallways, elevator shafts, stairways, and space devoted to cooling, heating, or other equipment.

#### 17.29.020 - Permitted uses—MUC-1 and MUC-2.

- A. Banquet, conference facilities and meeting rooms;
- B. Bed and breakfast and other lodging facilities for up to ten guests per night;
- C. Child care centers and/or nursery schools;
- D. Indoor entertainment centers and arcades;
- E. Health and fitness clubs;
- F. Medical and dental clinics, outpatient; infirmary services;
- G. Museums, libraries and cultural facilities;
- H. Offices, including finance, insurance, real estate and government;
- I. Outdoor markets, such as produce stands, craft markets and farmers markets that are operated on the weekends and after six p.m. during the weekday;
- J. Postal services;
- K. Parks, playgrounds, play fields and community or neighborhood centers;
- L. Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment;
- M. Residential units, multi-family;
- N. Residential units, single and two-family in the same building as another permitted use in the zone;
- <u>O</u>N. Restaurants, eating and drinking establishments without a drive through;
- <u>P</u>O. Services, including personal, professional, educational and financial services; laundry and dry-cleaning;
- <u>Q</u>P. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores, marijuana pursuant to Section 17.54.110, and similar, provided the maximum footprint for a stand-alone building with a single store or multiple buildings with the same business does not exceed sixty thousand square feet;
- RQ. Seasonal sales, subject to OCMC Section 17.54.060;
- SR. Assisted living facilities; nursing homes and group homes for over fifteen patients;
- TS. Studios and galleries, including dance, art, photography, music and other arts;

- <u>U</u>∓. Utilities: Basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, pump stations, water tanks, telephone exchanges and cell towers;
- <u>V</u>U. Veterinary clinics or pet hospitals, pet day care;
- <u>W</u>¥. Home occupations;
- <u>X</u><del>W</del>. Research and development activities;
- YX. Temporary real estate offices in model dwellings located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- <u>Z</u>¥. Residential care facility;
- AAZ. Transportation facilities;

ABAA. Live/work units, pursuant to Section 17.54.105—Live/work units.

## 17.49.[0]80 - Uses allowed outright (exempted).

The following uses are allowed within the NROD and do not require the issuance of an NROD permit:

- A. Stream, wetland, riparian, and upland restoration or enhancement projects as authorized by the city.
- B. Farming practices as defined in ORS 215.203 and farm uses, excluding buildings and structures, as defined in ORS 215.203.
- C. <u>Utility service using a single utility pole or where no more than one hundred square feet of ground</u> <u>surface is disturbed outside of the top-of-bank of water bodies and where the disturbed area is restored</u> <u>to the pre-construction conditions.</u>
- D. Boundary and topographic surveys leaving no cut scars greater than three inches in diameter on live parts of native plants listed in the Oregon City Native Plant List.
- E. Soil tests, borings, test pits, monitor well installations, and other minor excavations necessary for geotechnical, geological or environmental investigation, provided that disturbed areas are restored to pre-existing conditions as approved by the community development director.
- F. Trails meeting all of the following:
  - 1. Construction shall take place between May 1 and October 30 with hand held equipment;
  - 2. Widths shall not exceed forty-eight inches and trail grade shall not exceed twenty percent;
  - 3. Construction shall leave no scars greater than three inches in diameter on live parts of native plants;
  - 4. Located no closer than twenty-five feet to a wetland or the top of banks of a perennial stream or ten feet of an intermittent stream;
  - 5. No impervious surfaces; and
  - 6. No native trees greater than one-inch in diameter may be removed or cut, unless replaced with an equal number of native trees of at least two-inch diameter and planted within ten feet of the trail.
- G. Land divisions provided they meet the following standards, and indicate the following on the final plat:
  - Lots shall have their building sites (or buildable areas) entirely located at least five feet from the NROD boundary shown on the city's adopted NROD map. For the purpose of this subparagraph, "building site" means an area of at least three thousand five hundred square feet with minimum dimensions of forty feet wide by forty feet deep;
  - 2. All public and private utilities (including water lines, sewer lines or drain fields, and stormwater disposal facilities) are located outside the NROD;
  - 3. Streets, driveways and parking areas where all pavement shall be located at least ten feet from the NROD; and
  - 4. The NROD portions of all lots are protected by:
  - a. A conservation easement; or
  - b. A lot or tract created and dedicated solely for unimproved open space or conservation purposes.
- H. Site Plan and Design Review applications where all new construction is located outside of the NROD boundary shown on the city's adopted NROD map, and the NROD area is protected by a conservation easement approved in form by the city.
- I. Routine repair and maintenance of existing structures, roadways, driveways and utilities.

- J. Replacement, additions, alterations and rehabilitation of existing structures, roadways, utilities, etc., where the ground level impervious surface area is not increased.
- K. Measures mandated by the City of Oregon City to remove or abate nuisances or hazardous conditions.
- L. Planting of native vegetation and the removal of non-native, invasive vegetation (as identified on the Oregon City Native Plant List), and removal of refuse and fill, provided that:
  - 1. All work is done using hand-held equipment;
  - 2. No existing native vegetation is disturbed or removed; and
  - 3. All work occurs outside of wetlands and the top-of-bank of streams.
- M.—<u>Fences in which posts disturb no more than one hundred square feet of ground surface outside of the</u> top of bank of water bodies
- MN. Activities in which no more than one hundred square feet of ground surface is disturbed outside of the bankfull stage of water bodies and where the disturbed area is restored to the pre-construction conditions, notwithstanding that disturbed areas that are predominantly covered with invasive species shall be required to remove the invasive species from the disturbance area and plant trees and native plants pursuant to this Chapter.

#### 17.50.030 - Summary of the city's decision-making processes.

The following decision-making processes chart shall control the city's review of the indicated permits:

#### Table 17.50.030 PERMIT APPROVAL PROCESS

PERIVIT APPROVAL PROCES	55				
PERMIT TYPE	I	п	111	IV	Expedited Land Division
Annexation With or Without a Zone Change				<u>X</u>	
Compatibility Review	X				
Code Interpretation			x		
General Development Plan			x		
Conditional Use			X		
Detailed Development Plan <sup>1</sup>	X	х	Х		
Extension	<u>X</u>	×			
Final Plat	X				
Geologic Hazards		Х			
Historic Review	X		X		
Lot Line Adjustment and Abandonment	X				
Major Modification to a Prior Approval <sup>2</sup>	X	x	X	X	Х
Minor Modification to a Prior Approval	X				
Minor Partition		Х			
Nonconforming Use, Structure and Lots Review	X	х			
Reconsideration Plan or Code Amendment	×			<u>x</u>	
Revocation				X	
Site Plan and Design Review	X	x			
Subdivision		x			Х

Variance		x	Х		
Zone Change and Plan Amendment				х	
Zone Change Upon Annexation with No Discretion	×			×	
Zone Change Upon Annexation with Discretion				×	
Natural Resource Overlay District Exemption	X				
Natural Resource Overlay District Review		X	<u>X</u>		

<sup>1</sup> If any provision or element of the master plan requires a deferred Type III procedure, the detailed development plan shall be processed through a Type III procedure.

<sup>2</sup> A major modification to a prior approval shall be considered using the same process as would be applicable to the initial approval.

- A. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision-making process requires no notice to any party other than the applicant. The community development director's decision is final and not appealable by any party through the normal city land use process.
- B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria, similar to the limited land use decision-making process under state law. Applications evaluated through this process are assumed to be allowable in the underlying zone, and the inquiry typically focuses on what form the use will take or how it will look. Notice of application and an invitation to comment is mailed to the applicant, recognized active neighborhood association(s) and property owners within three hundred feet. The community development director accepts comments for a minimum of fourteen days and renders a decision. The community development director's decision is appealable to the city commission with notice to the planning commission, by any party with standing who submitted comments in writing before the expiration of the comment period. Review by the City Commission shall be on the record pursuant to Section 17.50.190. (i.e., applicant and any party who submitted comments during the comment period)under ORS 227.175.10(a)(€C). Review of the development director's decision will be de novo. The city commission decision is the city's final decision and is appealable subject to review by to the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.
- C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or historic review board is appealable to the city commission, on the record <u>pursuant to Section 17.50.190</u>. The city commission decision and is <del>appealable to</del> <u>subject to review board</u> or the planning commission is the city's final decision and is <del>appealable to</del> <u>subject to review by</u> LUBA within twenty-one days of when it becomes final, <u>unless otherwise provided by state law</u>.
- D. Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the city commission for final action. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and planning commission hearing is published and mailed

to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission, all issues are addressed. If the planning commission denies the application, any party with standing (i.e., anyone who appeared before the planning commission denial to the city commission. If the planning commission denial to the city commission. If the planning commission denial to the city commission. If the planning commission denial to the city commission. If the planning commission denies the application and no appeal has been received within ten fourteen days of the issuance of the final decision then the action of the planning commission becomes the final decision of the city. If the planning commission for final consideration. In either case, any review by the city commission is on the record and only issues raised before the planning commission may be raised before the city commission. The city commission decision is the city's final decision and is appealable to subject to review by the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

- E. The expedited land division (ELD) process is set forth in ORS 197.360 to 197.380. To qualify for this type of process, the development must meet the basic criteria in ORS 197.360(1)(a) or (b). While the decision-making process is controlled by state law, the approval criteria are found in this code. The community development director has twenty-one days within which to determine whether an application is complete. Once deemed complete, the community development director has sixtythree days within which to issue a decision. Notice of application and opportunity to comment is mailed to the applicant, recognized neighborhood association and property owners within one hundred feet of the subject site. The community development director will accept written comments on the application for fourteen days and then issues a decision. State law prohibits a hearing. Any party who submitted comments may call for an appeal of the community development director's decision before a hearings referee. The referee need not hold a hearing; the only requirement is that the determination be based on the evidentiary record established by the community development director and that the process be "fair." The referee applies the city's approval standards, and has forty-two days within which to issue a decision on the appeal. The referee is charged with the general objective to identify means by which the application can satisfy the applicable requirements without reducing density. The referee's decision is appealable only to the court of appeals pursuant to ORS 197.375(8) and 36.355(1).
- <u>F. Decisions, completeness reviews, appeals, and notices in this Chapter shall be calculated according to</u> <u>OCMC Chapter 1.04.070 and shall be based on calendar days, not business days.</u>

#### 17.50.120 - Quasi-judicial hearing process.

All public hearings pertaining to quasi-judicial permits, whether before the planning commission, historic review board, or city commission, shall comply with the procedures of this section. In addition, all public hearings held pursuant to this chapter shall comply with the Oregon Public Meetings Law, the applicable provisions of ORS 197.763 and any other applicable law.

- A. Once the community development director determines that an application for a Type III or IV decision is complete, the planning division shall schedule a hearing before the planning commission or historic review board, as applicable. Once the community development director determines that an appeal of a Type II, Type III or Type IV decision has been properly filed under Section 17.50.190, the planning division shall schedule a hearing pursuant to Section 17.50.190.
- B. Notice of the Type III or IV hearing shall be issued at least twenty days prior to the hearing in accordance with Section 17.50.090B.

- C. Written notice of an appeal hearing shall be sent by regular mail no later than fourteen days prior to the date of the hearing to the appellant, the applicant if different from the appellant, the property owner(s) of the subject site, all persons who testified either orally or in writing before the hearing body and all persons that requested in writing to be notified.
- D. The community development director shall prepare a staff report on the application which lists the applicable approval criteria, describes the application and the applicant's development proposal, summarizes all relevant city department, agency and public comments, describes all other pertinent facts as they relate to the application and the approval criteria and makes a recommendation as to whether each of the approval criteria are met. E. At the beginning of the initial public hearing at which any quasi-judicial application or appeal is reviewed, a statement describing the following shall be announced to those in attendance:
  - 1. That the hearing will proceed in the following general order: staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, commission deliberation and decision;
  - 2. That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The meeting chairperson may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open;
  - 3. Failure to raise an issue on the record with sufficient specificity and accompanied by statements or evidence sufficient to afford the city and all parties to respond to the issue, will preclude appeal on that issue to the state land use board of appeals;
  - 4. Any party wishing a continuance or to keep open the record must make that request while the record is still open; and
  - 5. That the commission chair shall call for any ex-parte contacts, conflicts of interest or bias before the beginning of each hearing item.
  - 6. For appeal hearings, only those persons who participated either orally or in writing in the decision or review or who have standing pursuant to ORS 197.175(10)(a)(C) will be allowed to participate either orally or in writing in the appeal.

F. Requests for continuance and to keep open the record: The hearing may be continued to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as a time-certain and location is established for the continued hearing. Similarly, hearing may be closed but the record kept open for the submission of additional written material or other documents and exhibits. The chairperson may limit the factual and legal issues that may be addressed in any continued hearing or open record period.

# 17.50.190 - Appeals.

Appeals of any non-final decisions by the city must comply with the requirements of this section.

- A. Type I decisions by the planning manager are not appealable to any other decision-maker within the city.
- B. A notice of appeal of any Type II, III or IV decision must be received in writing by the planning division within fourteen calendar days from the date notice of the challenged decision is provided to those entitled to notice. Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.
- C. The following must be included as part of the notice of appeal:
  - 1. The city planning file number and date the decision to be appealed was rendered;

- 2. The name, mailing address and daytime telephone number for each appellant;
- 3. A statement of how each appellant has an interest in the matter and standing to appeal;
- 4. A statement of the specific grounds for the appeal;
- 5. The appropriate appeal fee. Failure to include the appeal fee within appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed. If a city-recognized neighborhood association with standing to appeal has voted to request a fee waiver pursuant to Section 17.50.290C., no appeal fee shall be required for an appeal filed by that association. In lieu of the appeal fee, the neighborhood association shall provide a duly adopted resolution of the general membership or board approving the request for fee waiver.
- D. Standing to Appeal. The following rules prescribe who has standing to appeal:
  - 1. For Type II decisions, only those persons or recognized neighborhood associations who submitted comments in writing before the expiration of the comment period have standing to appeal a planning manager decision. Review by the city commission shall be on the record, limited to the issues raised in the comments and no new evidence shall be considered. who submitted comments have standing pursuant to ORS 197.175(10)(a)(C) may appeal a planning manager decision. The city commission shall hold a de novo hearing on the appeal. New evidence and new issues be raised at the hearing before the city commission.
  - 2. For Type III and IV decisions, only those persons or recognized neighborhood associations who have participated either orally or in writing have standing to appeal the decision of the planning commission or historic review board, as applicable. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record. No new evidence shall be allowed.
- E. Notice of the Appeal Hearing. The planning division shall issue notice of the appeal hearing to all parties who participated either orally or in writing before the close of the public record in accordance with Section 17.50.090B. Notice of the appeal hearing shall contain the following information:
  - 1. The file number and date of the decision being appealed;
  - 2. The time, date and location of the public hearing;
  - 3. The name of the applicant, owner and appellant (if different);
  - 4. The street address or other easily understood location of the subject property;
  - 5. A description of the permit requested and the applicant's development proposal;
  - 6. A brief summary of the decision being appealed and the grounds for appeal listed in the notice of appeal;
  - 7. A statement that the appeal hearing is confined to the issues raised in the notice of appeal;
  - 8. A general explanation of the requirements for participation and the city's hearing procedures.
- F. Appeal Hearing—Scope of Review. Appeal hearings shall comply with the procedural requirements of Section 17.50.120. Appeal hearings shall be conducted by the city commission, planning commission or historic review board, as applicable. The decision shall be on the record and the issues under consideration shall be limited to those listed in the notice of appeal.

#### 17.52.020 - Number of automobile spaces required.

A. The number of parking spaces shall comply with the minimum and maximum standards listed in Table 17.52.020. The parking requirements are based on spaces per one thousand square feet net leasable area unless otherwise stated.

Tab	le 17.52.020			
	PARKING REQUIREMENTS			
LAND USE	MINIMUM	MAXIMUM		
Multi-Family: Studio	1.00 per unit	1.5 per unit		
Multi-Family: 1 bedroom	1.25 per unit	2.00 per unit		
Multi-Family: 2 bedroom	1.5 per unit	2.00 per unit		
Multi-Family: 3 bedroom	1.75 per unit	2.50 per unit		
Hotel, Motel	1.0 per guest room	1.25 per guest room		
Correctional Institution	1 per 7 beds	1 per 5 beds		
Senior housing, including congregate care, residential care and assisted living facilities; nursing homes and other types of group homes	1 per 7 beds	1 per 5 beds		
Hospital	2.00	4.00		
Preschool Nursery/Kindergarten	2.00	3.00		
Elementary/Middle School	1 per classroom	1 per classroom + 1 per administrative employee + 0.25 per seat in auditorium/assembly room/stadium		
High School, College, Commercial School for Adults	0.20 per # staff and students	0.30 per # staff and students		
Auditorium, Meeting Room, Stadium, Religious Assembly Building, movie theater,	.25 per seat	0.5 per seat		
Retail Store, Shopping Center, Restaurants	4.10	5.00		
Office	2.70	3.33		
Medical or Dental Clinic	2.70	3.33		
Sports Club, Recreation Facilities	Case Specific	5.40		
Storage Warehouse, Freight Terminal	0.30	0.40		
Manufacturing, Wholesale Establishment	1.60	1.67		
Light Industrial, Industrial Park	1.3	1.60		

1. Multiple Uses. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

- 2. Requirements for types of buildings and uses not specifically listed herein shall be determined by the community development director, based upon the requirements of comparable uses listed.
- 3. Where calculation in accordance with the above list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 4. The minimum required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of vehicles used in conducting the business or use.

- 5. A change in use within an existing habitable building located in the MUD Design District or the Willamette Falls Downtown District is exempt from additional parking requirements. Additions to an existing building and new construction are required to meet the minimum parking requirements for the areas as specified in Table 17.52.020 for the increased square footage.
- B. Parking requirements can be met either onsite, or offsite by meeting the following conditions:
  - 1. Mixed Uses. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (e.g. the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly, up to a maximum reduction of fifty percent, as determined by the community development director.
  - 2. Shared Parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlay (e.g., uses primarily of a daytime versus nighttime nature), that the shared parking facility is within one thousand feet of the potential uses, and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument authorizing the joint use.
  - 3. On-Street Parking. On-street parking may be counted toward the minimum standards when it is on the street face abutting the subject land use. An on-street parking space must not obstruct a required clear vision area and it shall not violate any law or street standard. On-street parking for commercial uses shall conform to the following standards:
    - a. Dimensions. The following constitutes one on-street parking space:
  - 1. Parallel parking, each [twenty-two] feet of uninterrupted and available curb;
  - 2. [Forty-five/sixty] degree diagonal, each with [fifteen] feet of curb;
  - 3. Ninety degree (perpendicular) parking, each with [twelve] feet of curb.
  - 4. Public Use Required for Credit. On-street parking spaces counted toward meeting the parking requirements of a specific use may not be used exclusively by that use, but shall be available for general public use at all times. Signs or other actions that limit general public use of on-street spaces are prohibited.
- C. Reduction of the Number of Automobile Spaces Required. The required number of parking stalls may be reduced in the Downtown Parking Overlay District: Fifty percent reduction in the minimum number of spaces required is allowed prior to seeking further reductions in [sub]sections 2. and 3. below:
  - 1. Transit Oriented Development. For projects not located within the Downtown Parking Overlay District, the community development director may reduce the required number of parking stalls up to twenty-five percent when it is determined that a project in a commercial center (sixty thousand square feet or greater of retail or office use measured cumulatively within a five hundred-foot radius) or multi-family development with over eighty units, is adjacent to or within one thousand three hundred twenty feet of an existing or planned public transit street and is within one thousand three hundred twenty feet of the opposite use (commercial center or multi-family development with over eighty units).
  - 2. Reduction in Parking for Tree Preservation. The community development director may grant an adjustment to any standard of this requirement provided that the adjustment preserves a regulated tree or grove so that the reduction in the amount of required pavement can help preserve existing healthy trees in an undisturbed, natural condition. The amount of reduction must take into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be approved by the community development director. This reduction is discretionary.
  - 3. Transportation Demand Management. The community development director may reduce the required number of parking stalls up to twenty-five percent when a parking-traffic study prepared by a traffic engineer demonstrates:

- a. Alternative modes of transportation, including transit, bicycles, and walking, and/or special characteristics of the customer, client, employee or resident population will reduce expected vehicle use and parking space demand for this development, as compared to standard Institute of Transportation Engineers vehicle trip generation rates and further that the transportation demand management program promotes or achieves parking utilization lower than minimum city parking requirements.
- b. Transportation demand management (TDM) program has been developed for approval by, and is approved by the city engineer. The plan will contain strategies for reducing vehicle use and parking demand generated by the development and will be measured annually. If, at the annual assessment, the city determines the plan is not successful, the plan may be revised. If the city determines that no good-faith effort has been made to implement the plan, the city may take enforcement actions.
- <u>4. The minimum required number of stalls may be reduced by up to 10% when the subject property is</u> <u>adjacent to an existing or planned fixed public transit route or within 1,000 feet of an existing or</u> <u>planned transit stop.</u>

## 17.58.040 - Lawful nonconforming structure or site.

A structure <u>or site</u> that was lawfully established but no longer conforms to all development standards of this land use code (such as setbacks) shall be considered <del>a</del>-lawfull<u>y</u> nonconforming <u>structure</u>. Notwithstanding development standard requirements in this Code, minor repairs and routin<u>e</u> maintenance of a lawful nonconforming structure are permitted. The continuation of a lawful nonconforming structure <u>or site</u> is subject to the following:

- A. Accidental Destruction. When a nonconforming structure is damaged by fire or other causes, the structure may be rebuilt using the same structure footprint.
- B. Intentional Destruction. When a nonconforming structure is removed or intentionally damaged by fire or other causes within the control of the owner, the replacement structure shall comply with the development standards of this title.
- C. Expansion. An expansion of a lawful nonconforming structure <u>or site</u> may be approved, conditionally approved or denied in accordance with the standards and procedures of this section.
  - In making a determination on such applications, the decision maker shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and, to approve such expansion, it must be found that the criteria identified in Section 17.58.060 have either been met, can be met by observance of conditions, or are not applicable.
  - An expansion of a nonconforming structure with alterations <u>Increases in the square footage of a building and/or site improvements which include installation of any additional off-street parking stalls</u> that exceed the threshold of subparagraph C.2.a. below shall comply with the development standards listed in subparagraph C.2.b. The value of the alterations and improvements is based on the entire project and not individual building permits.
    - a. Thresholds triggering compliance. The standards of subparagraph C.2.b. below shall be met when the value of <u>the increase in square footage of a building and/or increase in off-street</u> <u>parking stalls</u> the proposed exterior alterations or additions to the site, as determined by the community development director, is more th<u>aen</u> seventy-five thousand dollars. The following alterations and improvements shall not be included in the threshold calculation:
      - 1. Proposed alterations to meet approved fire and life safety agreements;
      - 2. Alterations related to the removal of existing architectural barriers, as required by the Americans with Disabilities Act, or as specified in Section 1113 of the Oregon Structural Specialty Code;
      - 3. Alterations required to meet Seismic Design Requirements; and

- 4. Improvements to on-site stormwater management facilities in conformance with Oregon City Stormwater Design Standards.
- b. Standards that shall be met. Developments not complying with the development standards listed below shall be brought into conformance.
  - 1. Pedestrian circulation systems, as set out in the pedestrian standards that apply to the sites;
  - 2. Minimum perimeter parking lot landscaping;
  - 3. Minimum interior parking lot landscaping;
  - 4. Minimum site landscaping requirements;
  - 5. Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with Chapter 17.52—Off-Street Parking and Loading;
  - 6. Screening; and
  - 7. Paving of surface parking and exterior storage and display areas.
- c. Area of required improvements.
  - 1. Generally. Except as provided in C.2.c.2. below, required improvements shall be made for the entire site.
  - 2. Exception for sites with ground leases. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. If all of the following are met, the area of the ground lease will be considered as a separate site for purposes of required improvements. The applicant shall meet the following:
    - i. The signed ground lease or excerpts from the lease document satisfactory to the city attorney shall be submitted to the community development director. The portions of the lease shall include the following:
      - •The term of the lease. In all cases, there must be at least one year remaining on the ground lease; and
      - •A legal description of the boundaries of the lease.
    - ii. The boundaries of the ground lease shall be shown on the site plan submitted with the application. The area of the lease shall include all existing and any proposed development that is required for, or is used exclusively by, those uses within the area of the lease; and
    - iii. Screening shall not be required along the boundaries of ground leases that are interior to the site.
- d. Timing and cost of required improvements. The applicant may choose one of the two following options for making the required improvements:
  - Option 1. Required improvements may be made as part of the alteration that triggers the required improvements. The cost of the standards that shall be met, identified in subparagraph C.2.b. above, is limited to ten percent of the value of the proposed alterations. It is the responsibility of the applicant to document to the community development director the value of the required improvements. Additional costs may be required to comply with other applicable requirements associated with the proposal. When all required improvements are not being made, the priority for the improvements shall be as listed in subparagraph C.2.b. above.
  - 2. Option 2. Required improvements may be made over several years, based on the compliance period identified in Table 17.58—1 below. However, by the end of the compliance period, the site shall be brought fully into compliance with the standards listed in subparagraph C.2.b. Where this option is chosen, the following must be met:
    - i. Before a building permit is issued, the applicant shall submit the following to the community development director:
      - •A Nonconforming Development Assessment, which identifies in writing and on a site plan, all development that does not meet the standards listed in Subparagraph C.2.b.

- •A covenant, in a form approved by the city attorney, executed by the property owner that meets the requirements of 17.50.150. The covenant shall identify development on the site that does not meet the standards listed in Subparagraph C.2.b., and require the owner to bring that development fully into compliance with this title. The covenant shall also specify the date by which the owner will be in conformance. The date must be within the compliance periods set out in Table 17.58 1.
- ii. The nonconforming development identified in the Nonconforming Development Assessment shall be brought into full compliance with the requirements of this Title within the following compliance periods. The compliance period begins when a building permit is issued for alterations to the site of more than seventy-five thousand dollars. The compliance periods are based on the size of the site (see Table 17.58—1 below).
- iii. By the end of the compliance period, the applicant or owner shall request that the site by certified by the community development director as in compliance. If the request is not received within that time, or if the site is not fully in conformance, no additional building permits will be issued.
- iv. If the regulations referred to by subparagraph C.2.b. are amended after the Nonconforming Development Assessment is received by the community development director, and those amendments result in development on the site that was not addressed by the Assessment becoming nonconforming, the applicant shall address the new nonconforming development using Option 1 or 2. If the applicant chooses Option 2, a separate Nonconforming Development Assessment, covenant and compliance period will be required for the new nonconforming development.

#### Table 17.58—1 Compliance Periods for Option 2

Square footage of site	Compliance Period
Less than 150,000 sq. ft.	2 years
150,000 sq. ft. or more, up to 300,000 sq. ft.	3 years
300,000 sq. ft. or more, up to 500,000 sq. ft.	4 years
More than 500,000 sq. ft.	5 years

#### 17.62.035 - Minor site plan and design review.

This section provides for a minor site plan and design review process. Minor Site Plan Review is a Type I or Type II decision, as described in OCMC Section 17.62.035(A), subject to administrative proceedings described in OCMC Section 17.50 and may be utilized as the appropriate review process only when authorized by the community development director. The purpose of this type of review is to expedite design review standards for uses and activities that require only a minimal amount of review, typical of minor modifications and/or changes to existing uses or buildings.

- A. Type I Minor Site Plan and Design Review.
  - 1. Applicability. Type I applications involve no discretion. The Type I process is not applicable for:
    - a. Any activity which is included with or initiates actions that require Type II-IV review.
    - b. Any use which is not permitted outright, unless otherwise noted.
    - c. Any proposal in which nonconforming upgrades are required under Chapter 17.58.
    - d. Any proposal in which modifications are proposed under Section 17.62.015.

- 2. The following projects may be processed as a Type I application.
  - a. Addition or removal of up to two hundred square feet to a commercial, institutional, or multifamily structure in which no increases are required to off-street parking. This includes a new ancillary structure, addition to an existing structure, or new interior space (excluding new drive thru). Increases of more than two hundred square feet in a twelve-month period shall be processed as Type II.
  - b. Addition or removal of up to one thousand square feet to an industrial use in which no increases are required to off-street parking. This includes a new ancillary structure, addition to an existing structure, or new interior space (excluding ancillary retail and office). Increases of more than one thousand square feet in a twelve-month period shall be processed as Type II.
  - c. Replacement of exterior building materials.
  - d. Addition of windows and doors, relocation of windows and doors in which transparency levels remain unchanged, or removal of windows and doors provided minimum transparency requirements are still met.
  - e. Addition or alteration of parapets or rooflines.
  - f. Removal, replacement or addition of awnings, or architectural projections to existing structures.
  - g. Modification of building entrances.
  - h. Addition to or alteration of a legal nonconforming single or two-family dwelling.
  - i. Repaving of previously approved parking lots with no change to striping.
  - j. Change to parking lot circulation or layout, excluding driveway modifications.
  - k. Removal or relocation of vehicle parking stalls provided total parking remains between approved minimum and maximum with no new reductions other than through the downtown parking district.
  - I. Adoption of shared parking agreements.
  - m. Changes to amount, location, or design of bicycle parking.
  - n. Changes to landscaping that do not require stormwater quality and quantity treatment under OCMC Chapter 13.12.
  - o. New or changes to existing pedestrian accessways, walkways or plazas.
  - p. Installation of mechanical equipment.
  - q. Installation of or alterations to ADA accessibility site elements.
  - r. Modification of a fence, hedge, or wall, or addition of a fence, hedge or wall at least twenty feet away from a public right-of-way.
  - s. Addition of or alterations to outdoor lighting.
  - t. Addition, modification, or relocation of refuse enclosure.

## u. Demolition of any structure or portion of a structure

- v. Tree removal
- 3. Submittal requirements. A Type I application shall include:
  - a. A narrative describing the project.
  - b. Site plan drawings showing existing conditions/uses and proposed conditions/uses.
  - c. Architectural drawings, including building elevations and envelopes, if architectural work is proposed.
  - d. A completed application form.
  - e. Any other information determined necessary by the Community Development Director.
- B. Type II Minor Site Plan and Design Review.
  - 1. Type II Minor site plan and design review applies to the following uses and activities unless those uses and activities qualify for Type I review per Section 17.62.035(A):
    - a. Modification of an office, commercial, industrial, institutional, public or multi-family structure for the purpose of enhancing the aesthetics of the building and not increasing

the interior usable space (for example covered walkways or entryways, addition of unoccupied features such as clock tower, etc.).

- b. Modification to parking lot layout and landscaping, or the addition of up to five parking spaces.
- c. A maximum addition of up to one thousand square feet to a commercial, office, institutional, public, multi-family, or industrial building provided that the addition is not more than thirty-five percent of the original building square footage.
- d. Other land uses and activities may be added if the community development director makes written findings that the activity/use will not increase off-site impacts and is consistent with the type and/or scale of activities/uses listed above.
- 2. Application. The application for the Type II minor site plan and design review shall contain the following elements:
- a. The submittal requirements of Chapter 17.50.
- b. A narrative explaining all aspects of the proposal in detail and addressing each of the criteria listed in Section 17.62.035(C) below.
- c. Site plan drawings showing existing conditions/uses and proposed conditions/uses.
- d. Architectural drawings, including building elevations and envelopes, if architectural work is proposed.
- e. Additional submittal material may be required by the community development director on a case-by-case basis.
- 3. Development Standards for Type II Minor Site Plan and Design Review.
  - a. All development shall comply with Section 17.62.050(1—7 and 8—15 and 20—22) when deemed applicable by the community development director. Other sections may apply, as directed by the community development director when applicable, in order to show compliance with this chapter, such as the commercial and institutional standards of Section 17.62.055.

#### 17.62.050 - Standards.

- A. All development shall comply with the following standards:
  - 1. Landscaping, A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall be retained to the maximum extent practicable. All plants listed on the Oregon City Nuisance Plant List shall be removed from the site prior to issuance of a final occupancy permit for the building.
    - a. Except as allowed elsewhere in the zoning and land division chapters of this Code, all areas to be credited towards landscaping must be installed with growing plant materials. A reduction of up to twenty-five percent of the overall required landscaping may be approved by the community development director if the same or greater amount of pervious material is incorporated in the non-parking lot portion of the site plan (pervious material within parking lots are regulated in OCMC 17.52.070).
    - b. Pursuant to Chapter 17.49, landscaping requirements within the Natural Resource Overlay District, other than landscaping required for parking lots, may be met by preserving, restoring and permanently protecting native vegetation and habitat on development sites.
    - c. The <u>A</u> landscaping plan shall be prepared by a registered landscape architect <u>for new or revised</u> landscaped areas. Landscape architect approval is not required for tree removal and/or installation if the species are chosen from an approved street tree list. <u>A certified landscape</u> designer, arborist, or nurseryman shall be acceptable in lieu of a landscape architect for projects with less than 500 square feet of landscaping. All landscape plans shall and include a mix of vertical (trees and shrubs) and horizontal elements (grass, groundcover, etc.) that within three years will cover one hundred percent of the Landscape area. No mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees. The community development department shall maintain a list of trees, shrubs and vegetation acceptable for landscaping.

- d. For properties within the Downtown Design District<del>, or for major remodeling in all zones subject to this chapter,</del> landscaping shall be required to the extent practicable up to the ten percent requirement.
- e. Landscaping shall be visible from public thoroughfares to the extent practicable.
- f. Interior parking lot landscaping shall not be counted toward the fifteen percent minimum, unless otherwise permitted by the dimensional standards of the underlying zone district.
- 2. Vehicular Access and Connectivity.
  - a. Parking areas shall be located behind buildings, below buildings, or on one or both sides of buildings.
  - b. Ingress and egress locations on thoroughfares shall be located in the interest of public safety. Access for emergency services (fire and police) shall be provided.
  - c. Alleys or vehicular access easements shall be provided in the following Districts: R-2, MUC-1, MUC-2, MUD and NC zones unless other permanent provisions for access to off-street parking and loading facilities are approved by the decision-maker. The corners of alley intersections shall have a radius of not less than ten feet.
  - d. Sites abutting an alley shall be required to gain vehicular access from the alley unless deemed impracticable by the community development director.
  - e. Where no alley access is available, the development shall be configured to allow only one driveway per frontage. On corner lots, the driveway(s) shall be located off of the side street (unless the side street is an arterial) and away from the street intersection. Shared driveways shall be required as needed to accomplish the requirements of this section. The location and design of pedestrian access from the sidewalk shall be emphasized so as to be clearly visible and distinguishable from the vehicular access to the site. Special landscaping, paving, lighting, and architectural treatments may be required to accomplish this requirement.
  - f. Driveways that are at least twenty-four feet wide shall align with existing or planned streets on adjacent sites.
  - g. Development shall be required to provide existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements where applicable. Such easements shall be required in addition to applicable street dedications as required in Chapter 12.04.
  - h. Vehicle and pedestrian access easements may serve in lieu of streets when approved by the decision maker only where dedication of a street is deemed impracticable by the city.
  - i. Vehicular and pedestrian easements shall allow for public access and shall comply with all applicable pedestrian access requirements.
  - j. In the case of dead-end stub streets that will connect to streets on adjacent sites in the future, notification that the street is planned for future extension shall be posted on the stub street until the street is extended and shall inform the public that the dead-end street may be extended in the future.
  - k. Parcels larger than three acres shall provide streets as required in Chapter 12.04. The streets shall connect with existing or planned streets adjacent to the site.
  - I. Parking garage entries shall not dominate the streetscape. They shall be designed and situated to be ancillary to the use and architecture of the ground floor. This standard applies to both public garages and any individual private garages, whether they front on a street or private interior access road.
  - m. Buildings containing above-grade structured parking shall screen such parking areas with landscaping or landscaped berms, or incorporate contextual architectural elements that complement adjacent buildings or buildings in the area. Upper level parking garages shall use articulation or fenestration treatments that break up the massing of the garage and/or add visual interest.

- 3. Building structures shall be complimentary to the surrounding area. All exterior surfaces shall present a finished appearance. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades or decking shall be prohibited.
  - a. Alterations, additions and new construction located within the McLoughlin Conservation District, Canemah National Register District, and the Downtown Design District and when abutting a designated Historic Landmark shall utilize materials and a design that incorporates the architecture of the subject building as well as the surrounding district or abutting Historic Landmark. Historic materials such as doors, windows and siding shall be retained or replaced with in kind materials unless the community development director determines that the materials cannot be retained and the new design and materials are compatible with the subject building, and District or Landmark. The community development director may utilize the Historic Review Board's Guidelines for New Constriction (2006) to develop findings to show compliance with this section.
  - b. In historic areas and where development could have a significant visual impact, the review authority may request the advisory opinions of appropriate experts designated by the community development director from the design fields of architecture, landscaping and urban planning. The applicant shall pay the costs associated with obtaining such independent professional advice; provided, however, that the review authority shall seek to minimize those costs to the extent practicable.
- 4. Grading shall be in accordance with the requirements of Chapter 15.48 and the public works stormwater and grading design standards.
- 5. Development subject to the requirements of the Geologic Hazard overlay district shall comply with the requirements of that district.
- 6. Drainage shall be provided in accordance with city's drainage master plan, Chapter 13.12, and the public works stormwater and grading design standards.
- 7. Parking, including carpool, vanpool and bicycle parking, shall comply with city off-street parking standards, Chapter 17.52.
- 8. Sidewalks and curbs shall be provided in accordance with the city's transportation master plan and street design standards. Upon application, the community development director may waive this requirement in whole or in part in those locations where there is no probable need, or comparable alternative location provisions for pedestrians are made.
- 9. A well-marked, continuous and protected on-site pedestrian circulation system meeting the following standards shall be provided:
  - a. Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct. Exceptions may be allowed by the director where steep slopes or protected natural resources prevent a direct connection or where an indirect route would enhance the design and/or use of a common open space.
  - b. The pedestrian circulation system shall connect all main entrances on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard. Pedestrian connections to other areas of the site, such as parking areas, recreational areas, common outdoor areas, and any pedestrian amenities shall be required.
  - c. Elevated external stairways or walkways, that provide pedestrian access to multiple dwelling units located above the ground floor of any building are prohibited. The community development director may allow exceptions for external stairways or walkways located in, or facing interior courtyard areas provided they do not compromise visual access from dwelling units into the courtyard.
  - d. The pedestrian circulation system shall connect the main entrances of adjacent buildings on the same site.

- e. The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent commercial and residential sites where practicable. Walkway linkages to adjacent developments shall not be required within industrial developments or to industrial developments or to vacant industrially-zoned land.
- f. On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be a minimum of seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the walkway shall be raised or separated from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel. Pedestrian walkways that cross drive isles or other vehicular circulation areas shall utilize a change in textual material or height to alert the driver of the pedestrian crossing area.
- 10. There shall be provided adequate means to ensure continued maintenance and necessary normal replacement of private common facilities and areas, drainage ditches, streets and other ways, structures, recreational facilities, landscaping, fill and excavation areas, screening and fencing, groundcover, garbage storage areas and other facilities not subject to periodic maintenance by the city or other public agency.
- 11. Site planning shall conform to the requirements of OCMC Chapter 17.41 Tree Protection.
- 12. Development shall be planned, designed, constructed and maintained to protect water resources and habitat conservation areas in accordance with the requirements of the city's Natural Resources Overlay District, Chapter 17.49, as applicable.
- 13. All development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the community development director or building official may require submission of evidence demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited.
- 14. Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided. The applicant shall demonstrate that adequate facilities and services are presently available or can be made available concurrent with development. Service providers shall be presumed correct in the evidence, which they submit. All facilities shall be designated to city standards as set out in the city's facility master plans and public works design standards. A development may be required to modify or replace existing offsite systems if necessary to provide adequate public facilities. The city may require over sizing of facilities where necessary to meet standards in the city's facility master plan or to allow for the orderly and efficient provision of public facilities and services. Where over sizing is required, the developer may request reimbursement from the city for over sizing based on the city's reimbursement policy and fund availability, or provide for recovery of costs from intervening properties as they develop.
- 15. Adequate right-of-way and improvements to streets, pedestrian ways, bike routes and bikeways, and transit facilities shall be provided and be consistent with the city's transportation master plan and design standards and this title. Consideration shall be given to the need for street widening and other improvements in the area of the proposed development impacted by traffic generated by the proposed development. This shall include, but not be limited to, improvements to the right-of-way, such as installation of lighting, signalization, turn lanes, median and parking strips, traffic islands, paving, curbs and gutters, sidewalks, bikeways, street drainage facilities and other facilities needed because of anticipated vehicular and pedestrian traffic generation. Compliance with [Chapter] 12.04,

Streets, Sidewalks and Public Places shall be sufficient to achieve right-of-way and improvement adequacy.

- 16. If a transit agency, upon review of an application for an industrial, institutional, retail or office development, recommends that a bus stop, bus turnout lane, bus shelter, accessible bus landing pad, lighting, or transit stop connection be constructed, or that an easement or dedication be provided for one of these uses, consistent with an agency adopted or approved plan at the time of development, the review authority shall require such improvement, using designs supportive of transit use. Improvements at a major transit stop may include intersection or mid-block traffic management improvements to allow for crossings at major transit stops, as identified in the transportation system plan.
- 17. All utility lines shall be placed underground.
- 18. Access and facilities for physically handicapped people shall be incorporated into the site and building design consistent with applicable federal and state requirements, with particular attention to providing continuous, uninterrupted access routes.
- 19. For a residential development, site layout shall achieve at least eighty percent of the maximum density of the base zone for the net developable area. Net developable area excludes all areas for required right-of-way dedication, land protected from development through Natural Resource or Geologic Hazards protection, and required open space or park dedication.
- 20. Screening of Mechanical Equipment:
  - a. Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened. Screening shall be accomplished through the use of parapet walls or a sight-obscuring enclosure around the equipment constructed of one of the primary materials used on the primary facades of the structure, and that is an integral part of the building's architectural design. The parapet or screen shall completely surround the rooftop mechanical equipment to an elevation equal to or greater than the highest portion of the rooftop mechanical equipment being screened. In the event such parapet wall does not fully screen all rooftop equipment, then the rooftop equipment shall be enclosed by a screen constructed of one of the primary materials used on the primary facade of the building so as to achieve complete screening.
  - b. Wall-mounted mechanical equipment shall not be placed on the front facade of a building or on a facade that faces a right-of-way. Wall-mounted mechanical equipment, including air conditioning or HVAC equipment and groups of multiple utility meters, that extends six inches or more from the outer building wall shall be screened from view from streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through the use of (a) sight-obscuring enclosures constructed of one of the primary materials used on the primary facade of the structure, (b) sight-obscuring fences, or (c) trees or shrubs that block at least eighty percent of the equipment from view or (d) painting the units to match the building. Wall-mounted mechanical equipment that extends six inches or less from the outer building wall shall be designed to blend in with the color and architectural design of the subject building.
  - c. Ground-mounted above-grade mechanical equipment shall be screened by ornamental fences, screening enclosures, trees, or shrubs that block at least eighty percent of the view. Placement and type of screening shall be determined by the community development director.
  - d. All mechanical equipment shall comply with the standards in this section. If mechanical equipment is installed outside of the site plan and design review process, planning staff shall review the plans to determine if additional screening is required. If the proposed screening meets this section, no additional planning review is required.
  - <u>de</u>. This section shall not apply to the installation of solar energy panels, photovoltaic equipment or wind power generating equipment.
- 21. Building Materials.

- a. Preferred building materials. Building exteriors shall be constructed from high quality, durable materials. Preferred exterior building materials that reflect the city's desired traditional character are as follows:
  - i. Brick.
  - ii. Basalt stone or basalt veneer.
  - iii. Narrow horizontal wood or composite siding (generally five inches wide or less); wider siding will be considered where there is a historic precedent.
  - iv. Board and baton batten siding.
  - v. Other materials subject to approval by the community development director.
  - vi. Plywood with battens or fiber/composite panels with concealed fasteners and contagious contiguous aluminum sections at each joint that are either horizontally or vertically aligned.
  - vii. Stucco shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.
- b. Prohibited materials. The following materials shall be prohibited in visible locations <u>from the</u> <u>right-of-way or a public access easement</u> unless an exception is granted by the community development director based on the integration of the material into the overall design of the structure.
  - i. Vinyl or plywood siding (including T-111 or similar plywood).
  - ii. Glass block or highly tinted, reflected, translucent or mirrored glass (except stained glass) as more than ten percent of the building facade.
  - iii. Corrugated fiberglass.
  - iv. Chain link fencing (except for temporary purposes such as a construction site, or as a gates for a refuse enclosure, or associated with stormwater facilities, or within the General Industrial District).
  - [v.] Crushed colored rock/crushed tumbled glass.
  - [vi.] Non-corrugated and highly reflective sheet metal.
- c. Special material standards: The following materials are allowed if they comply with the requirements found below:
  - 1. Concrete block. When used for the front facade of any building, concrete blocks shall be split, rock- or ground-faced and shall not be the prominent material of the elevation. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than three feet above the finished grade level adjacent to the foundation wall.
  - 2. Metal siding. Metal siding shall have visible corner moldings and trim and incorporate masonry or other similar durable/permanent material near the ground level (first two feet above ground level).
  - 3. Exterior Insulation and Finish System (EIFS) and similar toweled troweled finishes shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.
  - 4. Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.
- 22. Conditions of Approval. The review authority may impose such conditions as it deems necessary to ensure compliance with these standards and other applicable review criteria, including standards set out in city overlay districts, the city's master plans, and city public works design standards. Such conditions shall apply as described in Sections 17.50.310, 17.50.320 and 17.50.330. The review authority may require a property owner to sign a waiver of remonstrance against the formation of and participation in a local improvement district where it deems such a waiver necessary to provide needed improvements reasonably related to the impacts created by the proposed development. To ensure compliance with this chapter, the review authority may require an applicant to sign or accept

a legal and enforceable covenant, contract, dedication, easement, performance guarantee, or other document, which shall be approved in form by the city attorney.

23. Development shall conform to the requirements of OCMC Chapter 17.58 Nonconforming Uses, Structures, and Lots.

## 17.62.065 - Outdoor lighting.

- A. Purpose. The general purpose of this section is to require outdoor lighting that is adequate for safety and convenience; in scale with the activity to be illuminated and its surroundings; directed to the surface or activity to be illuminated; and designed to clearly render people and objects and contribute to a pleasant nighttime environment. Additional specific purposes are to:
  - 1. Provide safety and personal security as well as convenience and utility in areas of public use or traverse, for uses where there is outdoor public activity during hours of darkness;
  - 2. Control glare and excessive brightness to improve visual performance, allow better visibility with relatively less light, and protect residents from nuisance and discomfort;
  - 3. Control trespass light onto neighboring properties to protect inhabitants from the consequences of stray light shining in inhabitants' eyes or onto neighboring properties;
  - 4. Result in cost and energy savings to establishments by carefully directing light at the surface area or activity to be illuminated, using only the amount of light necessary; and
  - 5. Control light pollution to minimize the negative effects of misdirected light and recapture views to the night sky.
- B. Applicability.
  - 1. General.
    - a. All exterior lighting for any type of commercial, mixed-use, industrial or multi-family development shall comply with the standards of this section, unless excepted in subsection B.3.
    - b. The city engineer/public works director shall have the authority to enforce these regulations on private property if any outdoor illumination is determined to present an immediate threat to the public health, safety and welfare.
  - 2. Lighting Plan Requirement.
  - All commercial, industrial, mixed-use, cottage housing and multi-family developments shall submit a proposed exterior lighting plan. The plan must be submitted concurrently with the site plan. The exterior lighting plan shall include plans and specifications for streetlights, parking lot lights, and exterior building lights. The specifications shall include details of the pole, fixture height and design, lamp type, wattage, and spacing of lights.
  - 3. Excepted Lighting.

The following types of lighting are excepted from the requirements of this section.

- a. Residential lighting for single-family attached and detached homes, and duplexes.
- b. Public street and right-of-way lighting.
- c. Temporary decorative seasonal lighting provided that individual lamps have a light output of sixty watts or less.
- d. Temporary lighting for emergency or nighttime work and construction.
- e. Temporary lighting for theatrical, television, and performance areas, or for special public events.
- f. Lighting for a special district, street, or building that, according to an adopted municipal plan or ordinance, is determined to require special lighting aesthetics as part of its physical character.
   a. Lighting required and regulated by the Enderal Aviation Administration
- g. Lighting required and regulated by the Federal Aviation Administration.
- C. General Review Standard. If installed, all exterior lighting shall meet the functional security needs of the proposed land use without adversely affecting adjacent properties or the community. For purposes of this section, properties that comply with the design standards of subsection D. below shall be deemed to not adversely affect adjacent properties or the community.
- D. Design and Illumination Standards.
- General Outdoor Lighting Standard and Glare Prohibition.

- 1. Outdoor lighting, if provided, shall be provided in a manner that enhances security, is appropriate for the use, avoids adverse impacts on surrounding properties, and the night sky through appropriate shielding as defined in this section. Glare shall not cause illumination on other properties in excess of a measurement of 0.5 footcandles of light as measured at the property line. In no case shall exterior lighting add more than 0.5 footcandle to illumination levels at any point off-site. Exterior lighting is not required except for purposes of public safety. However, if installed, all exterior lighting shall meet the following design standards:
- <u>1</u>2. Any light source or lamp that emits more than nine hundred lumens (thirteen watt compact fluorescent or sixty watt incandescent) shall be concealed or shielded with a full cut-off style fixture in order to minimize the potential for glare and unnecessary diffusion on adjacent property. All fixtures shall utilize one of the following bulb types: metal halide, induction lamp, compact fluorescent, incandescent (including tungsten-halogen), or high pressure sodium with a color rendering index above seventy.
- <u>2</u>3. The maximum height of any lighting pole serving a multi-family residential use shall be twenty feet. The maximum height serving any other type of use shall be twenty-five feet, except in parking lots larger than five acres, the maximum height shall be thirty-five feet if the pole is located at least one hundred feet from any residential use.

#### 34. Lighting levels:

Table 1-17.62.065. Foot-candle Levels

Location	Min	Max	Avg
Pedestrian Walkways	<del>0.5</del>	<del>7:1 max/min ratio</del>	<del>1.5</del>
Pedestrian Walkways in Parking Lots		10:1 max/min ratio	0.5
Pedestrian Accessways/Walkways	0.5	7:1 max/min ratio	1.5
Building Entrances	3		
Bicycle Parking Areas	3		
Abutting property	N/A	<del>.05-<u>0.5</u></del>	

-5. Parking lots and other background spaces shall be illuminated as unobtrusively as possible while meeting the functional needs of safe circulation and protection of people and property. Foreground spaces, such as building entrances and outside seating areas, shall utilize pedestrian scale lighting that defines the space without glare.

6. Any on-site pedestrian circulation system shall be lighted to enhance pedestrian safety and allow employees, residents, customers or the public to use the walkways at night. Pedestrian walkway lighting through parking lots shall be lighted to light the walkway and enhance pedestrian safety pursuant to Table 1.

<u>47</u>. Pedestrian Accessways. To enhance pedestrian and bicycle safety, pedestrian accessways required pursuant to OCMC 12.28 shall be lighted with pedestrian-scale lighting. Accessway lighting shall be to a minimum level of one-half foot-candles, a one and one-half foot-candle average, and a maximum to minimum ratio of seven-to-one and shall be oriented not to shine upon adjacent properties. Street lighting shall be provided at both entrances. Lamps shall include a high-pressure sodium bulb with an unbreakable lens.

- <u>58</u>. Floodlights shall not be utilized to light all or any portion of a building facade between ten p.m. and six a.m.
- <u>69</u>. Lighting on <del>automobile service station, convenience store, and other</del> outdoor canopies shall be fully recessed into the canopy and shall not protrude downward beyond the ceiling of the canopy.
- 10. The style of light standards and fixtures shall be consistent with the style and character of architecture proposed on the site.
- 11. In no case shall exterior lighting add more than one foot-candle to illumination levels at any point offsite.
- <u>712</u>. All outdoor light not necessary for security purposes shall be reduced, activated by motion sensor detectors, or turned off during non-operating hours.
- <u>813</u>. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.
- <u>9</u>14. For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the building roofline.
- <u>10</u>15. No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.
- <u>11</u><del>16</del>. Wireless Sites. Unless required by the Federal Aviation Administration or the Oregon Aeronautics Division, artificial lighting of wireless communication towers and antennas shall be prohibited. Strobe lighting of wireless communication facilities is prohibited unless required by the Federal Aviation Administration. Security lighting for equipment shelters or cabinets and other on-the-ground auxiliary equipment on wireless communication facilities shall be initiated by motion detecting lighting.
- <u>12</u><del>17</del>. Lighting for outdoor recreational uses such as ball fields, playing fields, tennis courts, and similar uses, provided that such uses comply with the following standards:

i. Maximum permitted light post height: eighty feet.

ii. Maximum permitted illumination at the property line: 0.5 foot-candles.

## 17.80.035 Modifications to Existing Facilities.

All modifications and expansions to existing wireless communication facilities are permitted in every zone, subject to the requirements of this Section. Certain modifications are deemed minor in nature and are deemed "eligible modifications" These modifications include the addition, removal, and/or replacement of transmission equipment that do not make a substantial change to the physical dimensions (height, mass, width) of the existing tower, support structure, or base station. Replacement of an existing tower may also be considered an eligible modification if such replacement meets the standards in paragraph 4 below.

- <u>1. For the purpose of this Section, "substantial change" means the following:</u>
  - a. The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of 1 additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection by up to an additional 5% if necessary to avoid interference with existing antennas; or
  - b. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved (not to exceed 4) or more than 1 new equipment shelter; or
  - c. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection to

the extent necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or

- d. The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.
- Increases to height allowed by this subsection above the existing tower shall be based on the existing height of the tower, excluding any tower lighting required in the original land use approval or in the proposed modification request.
- 3. To the extent feasible, additional equipment shall maintain the appearance intended by the original facility, including, but not limited to, color, screening, landscaping, mounting configuration, or architectural treatment.
- <u>4.</u> To be considered an eligible modification, a replacement tower shall not exceed the height of the original tower by more than 10%, or the diameter of the original tower by more than 25% at any given point.

# 17.80.040 - Collocation of additional antenna(s) on existing support towers.

<u>Except for "eligible modifications" authorized in Section 17.80.035</u>, the following standards shall apply for the placement of antenna(s) and auxiliary support equipment on an existing wireless communication facility support tower.

A. Compatibility Review. Required for property zoned GI, CI, I, C, HC, MUC-1, MUC-2, MUE, MUD or NC.B. Site Plan and Design Review. Required for all cases other than those identified in Section 17.80.040.A.

# 17.80.050 - Collocation of additional antenna(s) on support structures.

Except for "eligible modifications" authorized in Section 17.80.035, the following standards shall apply for the placement of antenna(s) and auxiliary support equipment on a support structure. A. Compatibility Review. Required if the following exist:

- 1. Property is zoned GI, CI, I, C, HC, MUC-1, MUC-2, MUE, MUD or NC; and
- Property is not located in the McLoughlin or Canemah Historical Conservation Districts; and
- 3. Antenna(s) and auxiliary support equipment are setback a minimum of ten feet from each edge of the support structure and do not exceed a total height of twelve feet or a total width of eight feet, unless the antenna(s) is less than four inches in diameter and does not exceed a total height of twenty feet.
- B. Site Plan and Design Review. Required if the property is zoned GI, CI, I, C, MUC-1, MUC-2, MUE, MUD or NC and does not meet all the criteria of Section 17.80.050.A.
- C. Conditional Use Review. Required for all cases other than those identified in Sections 17.08.050.A and 17.08.050.B.

# 17.80.070 - Construction or modification of a support tower.

Except for "eligible modifications" authorized in OCMC 17.80.035:

A. Site Plan and Design Review. Required if the following exists:

- 1. Property is zoned GI, CI, I, C, MUC-2 or MUE; and
- 2. No adjacent parcel is zoned for residential use.
- B. Conditional Use Review. Required for all cases other than those identified in Section 17.80.070.A.
- C. Prohibited Zoning Districts and Locations. No new support towers shall be permitted within the Canemah Historic Neighborhood, McLoughlin Conservation District, The Oregon Trail-Barlow Road Historic Corridor, five hundred feet of the Willamette Greenway Corridor, or any new Historic Districts unless the applicant can demonstrate that failure to allow the support tower would effectively prevent the provision of communication services in that area. If the applicant makes such

a demonstration, the minimum height required to allow that service shall be the maximum height allowed for the tower.

## 17.80.080 - Site review process.

No wireless communications facilities, as defined in Section 17.80.020, may be constructed, collocated, modified to increase height, installed, or otherwise located within the city except as provided in this section <u>or unless otherwise authorized by Section 17.80.035</u>. Depending on the type and location of the wireless communication facility, the facility shall be subject to the following review unless collocation or an increase in height was granted through a prior land use process. A Conditional Use Review shall require Site Plan and Design Review to occur concurrently with the Conditional Use Review process.

- A. Compatibility Review. A wireless communication facility that, pursuant to Sections 17.80.030— 17.80.050, is subject to a compatibility review shall be processed in accordance with Standards of Section 17.80.110. The criteria contained in Section 17.80.110 shall govern approval or denial of the compatibility review application. No building permit shall be issued prior to completion of the compatibility review process.
- B. Site Plan and Design Review. A wireless communication facility that, pursuant to Sections 17.80.040—17.80.070, is subject to site plan and design review shall be processed in accordance with the standards of Section 17.80.110 and Chapter 17.62, as applicable. The criteria contained in Section 17.80.110 and Chapter 17.62 shall govern approval or denial of the site plan and design review application. In the event of a conflict in criteria, the criteria contained in this chapter shall govern. No building permit shall be issued prior to completion of the site plan and design review process, including any local appeal.
- C. Conditional Use Review. A wireless communication facility that, pursuant to Sections 17.80.050— 17.80.070, is subject to conditional use review, shall be processed in accordance with the Standards of Section 17.80.110 and Chapter 17.56, as applicable. The criteria contained in Section 17.80.110 and Chapter 17.56 shall govern approval or denial of the conditional use review application. In the event of a conflict in criteria, the criteria contained in this chapter shall govern. No building permit shall be issued prior to completion of the Conditional Use Review process, including any local appeal.

## 17.80.090 - Permit application requirements.

A. <u>Eligible Modification Requirements – For an application under Section 17.80.035, the following</u> information is required:

1. Application fee;

- 2. Planning Division land use application form;
- 3. Description of the project design and dimensions;
- <u>4. A written response demonstrating compliance with each criterion listed in OCMC Chapter</u> <u>17.80.035;</u>
- 5. Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with building permit and land use process; and
- 6. Elevations showing all improvements and connections to utilities.
- <u>B.</u> Compatibility Review Requirements For an application under Sections 17.80.030.B.7, 17.80.040.A
  - or 17.80.050.A, the following information is required:
  - 1. Application fee(s).
  - 2. Planning Division land use application form;
  - 3. A narrative of the proposed project that includes a description of the following:
    - i. Need for the project;
    - ii. Rationale and supporting evidence for the location; and

- iii. Description of the project design and dimensions.
- iv. A written response demonstrating compliance with each criterion listed in OCMC Chapter 17.80.110
- 4. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antenna(s) are collocated on or in structures directly across from or adjacent to the antenna(s);
- Documentation that the auxiliary support equipment shall not produce sound levels in excess of standards contained in Section 17.80.110G., or designs showing how the sound is to be effectively muffled to meet those standards;
- 6. Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with building permit and land use process;
- 7. Documentation of the integrity of the support tower, support structure, utility pole, light standard, or light pole to safely handle the load created by the collocation;
- 8. Elevations showing all improvements and connections to utilities; and
- 9. Color simulations of the site after construction demonstrating compatibility.
- <u>CB</u>. Site Plan and Design Review. For an application under Sections 17.80.040.B, 17.80.050B.,
  - 17.80.060A., or 17.80.070A. the following information is required:
    - 1. The information required in OCMC Chapter 17.80.90.AB;
    - 2. Pre-application notes;
    - A written response demonstrating compliance with each criterion listed in the Site Plan and Design Review Standards of Chapter 17.62.050 and all other applicable criterion as defined by the community development director; and
    - 4. Supplemental requirements listed in OCMC Chapter 17.80.90 DE. as needed.
- <u>D</u>C. Conditional Use Review. For an application under Sections 17.80.050C., 17.80.060B., or 17.80.070B. the following information is required:

The information required in OCMC Chapter 17.80.90.AB;

- 1. Pre-application notes;
- A written response demonstrating compliance with each criterion listed in the Site Plan and Design Review Standards of Chapter 17.62.050, 17.56, and all other applicable criterion as defined by the community development director as applicable
- 3. For an application under Section 17.80.070. Construction of Modification of a Support Tower, the requirements listed under Section 17.80.090.ED. Supplemental Information are required;
- 4. Responses to conditional use review criteria under Chapter 17.56.010;
- For an application under Section 17.80.050C. Collocation of Additional Antenna(s) on Support Structures, rationale for being unable to collocate in areas identified in Sections 17.80.050A. and 17.80.050B. shall be provided;
- 6. For an application under Section 17.80.060B. Collocation of Additional Antenna(s) on Utility Poles, Light Standards, and Light Poles, rationale for being unable to collocate in areas identified in Section 17.80.060A. shall be provided; and
- 7. For an application under Section 17.80.070B. Construction or Modification of a Support Tower, rationale for being unable to collocate in areas identified in Section 17.80.070A. shall be provided.
- 8. Supplemental information listed in OCMC Chapter 17.80.90ED.
- <u>E</u>D. Supplemental Information. The applicant shall submit the following information for all applications subject to conditional use and site plan and design review:
  - 1. The capacity of the support tower in terms of the number and type of antennas it is designed to accommodate;

- A signed agreement, as supplied by the city, stating that the applicant shall allow collocation with other users, provided all safety, structural, technological, and monetary requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the tower.
- 3. Documentation demonstrating that the Federal Aviation Administration has reviewed and approved the proposal, and Oregon Aeronautics Division has reviewed the proposal. Alternatively, a statement documenting that notice of the proposal has been submitted to the Federal Aviation Administration and Oregon Aeronautics Division may be submitted. The review process may proceed and approval may be granted for the proposal as submitted, subject to Federal Aviation Administration approval. If Federal Aviation Administration approval requires any changes to the proposal as initially approved, then that initial approval shall be void. A new application will need to be submitted, reviewed, and approved through an additional site plan and design review or conditional use review process. No building permit application shall be submitted without documentation demonstrating Federal Aviation Administration review and approval and Oregon Aeronautics Division review.
- 4. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and auxiliary support equipment from at least five points within a one-mile radius. Such points shall be chosen by the provider with a review and approval by the community development director to ensure that various potential views are represented.
- 5. Documentation that one or more wireless communications service providers will be using the support tower within sixty days of construction completion.
- 6. A site plan, drawn to scale, that includes:
  - a. Existing and proposed improvements;
  - b. Adjacent roads;
  - c. Parking, circulation, and access;
  - d. Connections to utilities, right-of-way cuts required, and easements required;
  - e. A landscape plan describing the maintenance plan and showing areas of existing and proposed vegetation to be added, retained, replaced, or removed; and
  - f. Setbacks from property lines or support structure edges of all existing and proposed structures. Plans that have been reduced, but have not had their scale adjusted, will not be accepted as satisfying this requirement.
- 7. An alternatives analysis for new support towers demonstrating compliance with the Support Tower Location Requirements of Chapter 17.80.100.

## 17.80.110 - Design standards.

Installation, collocation, construction, or modification of all support towers, structures, and antennas shall comply with the following standards, unless <u>it qualifies as an "eligible modification" under Section</u> <u>17.80.035 or an adjustment is obtained pursuant to the provisions of Section 17.80.120</u>.

- A. Support Tower. The support tower shall be self-supporting.
- B. Height Limitation. Support tower and antenna heights shall not exceed the maximum heights provided below.
  - 1. If the property is zoned GI, CI or I; and no adjacent parcel is zoned residential the maximum height of a support tower, including antennas, is one hundred twenty feet.
  - 2. If the property is zoned: a. GI, CI or I, and an adjacent parcel is zoned residential; or b. C, MUC-2 or MUE; the maximum height of a support tower, including antennas, is one hundred feet.
  - 3. If the property is zoned MUC-1, MUD or NC; the maximum height of a support tower, including antennas, is seventy-five feet.

- 4. For all cases other than those identified in Section 17.80.110.B.1-3 above, the maximum height of a support tower, including antennas, is seventy-five feet.
- C. Collocation. New support towers shall be designed to accommodate collocation of additional providers.
  - 1. New support towers of a height greater than seventy-five feet shall be designed to accommodate collocation of a minimum of two additional providers either outright or through future modification of the tower.
  - 2. New support towers of a height between sixty feet and seventy-five feet shall be designed to accommodate collocation of a minimum of one additional provider either outright or through future modification of the tower.
- D. Setbacks. The following setbacks shall be required from property lines, not the lease area, for support towers, auxiliary support equipment, and perimeter fencing.
  - 1. Support towers not designed to collapse within themselves shall be setback from all property lines a distance equal to the proposed height of the support tower.
  - 2. Support towers designed to collapse within themselves shall be setback from the property line a distance equal to the following:
    - a. If the property is zoned GI, CI, I, C, MUC-2 or MUE; and no adjacent parcel is zoned for a residential use the underlying zone setback shall apply;
    - b. If the property is zoned:
      - i. GI, CI, I, C, MUC-2 or MUE and an adjacent parcel is zoned residential; or
      - ii. MUC-1, MUD or NC; the setback shall be a minimum of twenty-five feet from all adjacent residentially zoned property lines and the underlying zoning setback for all other adjacent property lines; or
    - c. For all cases other than those identified in Section 17.80.110.D.2.a. and b. above, the setback shall be a minimum of twenty-five feet from all adjacent property lines.
- E. Auxiliary Support Equipment. The following standards shall be required.
  - 1. If the property is zoned:
    - a. For GI, CI, I, MUC-1, MUC-2, C, MUD, MUE or NC, the auxiliary support equipment footprint shall not exceed an area of three hundred forty square feet and fifteen feet in height at the peak;
    - b. For all cases other than those identified in Section 17.80.110.E.1.a. above, the auxiliary support equipment shall be:
      - i. Located underground or completely screened by landscaping or an architecturally significant masonry wall. The wall shall be finished with brick, stone, or stucco. The community development director may approve an alternate screening material if it is compatible with adjacent development and is architecturally significant. No exposed CMU is allowed on the exterior of the wall.
  - 2. Only one auxiliary accessory cabinet shall be allowed per service provider located on a support structure.
- F. Landscaping. In all zoning districts, existing vegetation shall be preserved to the maximum extent practicable. Screening of a site is mandatory.
  - 1. If the property is zoned:
    - a. GI or CI, and no adjacent parcel is zoned residential, landscaping may not be required if water quality issues are addressed and appropriate screening around the facility is proposed;
    - b. For all cases other than those identified in Section 17.80.110.F.1.a. above, landscaping shall be placed completely around the perimeter of the wireless communication facility, except as required to gain access. The minimum planting height shall be a minimum of six feet at the time of planting, densely placed so as to screen the facility. The landscaping shall be

compatible with vegetation in the surrounding area, and shall be kept healthy and well maintained as long as the facility is in operation. Failure to maintain the site will be grounds to revoke the ability to operate the facility.

- c. The community development director may approve an alternative landscaping plan that visually screens the facility and is consistent with the intent of this standard.
- G. Noise Reduction. Noise generating equipment shall be baffled to reduce sound level measured at the property line to the following levels except during short durations for testing and operation of generators in emergency situations:
  - 1. For any property where no adjacent parcel is zoned residential, the sound level at the property line shall not be greater than fifty dB;
  - 2. For all other cases, the sound level shall not be greater than forty dB when measured at the nearest residential parcel's property line.

## H. Lighting.

- 1. Unless required by the Federal Aviation Administration or the Oregon Aeronautics Division, artificial lighting of wireless communication towers and antennas shall be prohibited.
- 2. Strobe lighting is prohibited unless required by the Federal Aviation Administration.
- 3. Security lighting for equipment shelters or cabinets and other on-the-ground auxiliary equipment shall be initiated by motion detecting lighting. The lighting shall be the minimal necessary to secure the site, shall not cause illumination on adjacent properties in excess of a measurement of 0.5 footcandles at the property line, and shall be shielded to keep direct light within the site boundaries.

## I. Color.

Unless otherwise required by the Federal Aviation Administration, all support towers and antennas shall have a non-glare finish and blend with the natural background.

J. Signage.

- Support towers and antenna(s) shall not be used for signage, symbols, flags, banners, or other devices or objects attached to or painted on any portion of a wireless communication facility.
- K. Access Drives.
  - 1. On a site with an existing use, access shall be achieved through use of the existing drives to the greatest extent practicable. If adequate intersection sight distance is unavailable at the existing access intersection with a city street, an analysis of alternate access sites shall be required.
  - 2. Site shall be serviced by an access adequate to ensure fire protection of the site.
  - 3. New access drives shall be paved a minimum of twenty feet deep from the edge of the right-ofway (though the use of pervious paving materials such as F-mix asphalt, pavers, or geotech webbing is encouraged) and designed with material to be as pervious as practicable to minimize stormwater runoff.
  - 4. New access drives shall be reviewed for adequate intersection sight distances.
- L. Informing the city. All service providers with facilities within the city of Oregon City shall be required to report in writing to the community development director any changes in the status of their operation.
  - 1. An annual written statement shall be filed with the Planning Manager verifying continued use of each of their facilities in the city's jurisdiction as well as continued compliance with all state and federal agency regulations.
  - 2. The report shall include any of the following changes:
    - a. Changes in or loss of Federal Communication Commission license from the Federal Communication Commission to operate;
    - b. Receipt of notice of failure to comply with the regulations of any other authority over the business or facility;

- c. Change in ownership of the company that owns wireless communication facility or provides telecommunications services; or
- d. Loss or termination of lease with the telecommunications facility for a period of six months or longer.



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## STAFF REPORT AND RECOMMENDATION Updated March 28, 2017

- FILE NO.: L-17-04
- APPLICATION TYPE: Legislative
- HEARING DATE: Planning Commission 7:00 p.m., February 26, 2017 Commission Chambers, 625 Center St, Oregon City, OR 97045
- APPLICANT: Oregon City Community Development Department
- REQUEST: Proposed amendments to the Oregon City Municipal Code. Minimum Improvements and Design Standards for Land Divisions in Chapter 16.12, Definitions in Chapter 17.04, Mixed Use Corridor District in Chapter 17.29, Site Plan and Design Review in Chapter 17.62, Administration and Procedures in Chapter 17.50, Natural Resources Overlay District in Chapter 17.49, Nonconforming Uses, Structures, and Lots in Chapter 17.58, and Communication Facilities in Chapter 17.80.
- LOCATION: City-Wide
- REVIEWER: Kelly Reid, AICP, Planner

RECOMMENDATION: Staff recommends approval of this application based on the satisfaction of all required criteria for a Legislative action.

PROCESS: OCMC 17.50.170.

- A. Purpose. Legislative actions involve the adoption or amendment of the city's land use regulations, comprehensive plan, maps, inventories and other policy documents that affect the entire city or large portions of it. Legislative actions which affect land use must begin with a public hearing before the planning commission.
- B. Planning Commission Review.
  - 1. Hearing Required. The planning commission shall hold at least one public hearing before recommending action on a legislative proposal. Any interested person may appear and provide written or oral testimony on the proposal at or prior to the hearing. The community development director shall notify the Oregon Department of Land Conservation and Development (DLCD) as required by the post-acknowledgment procedures of ORS 197.610 to 197.625, as applicable.
  - 2. The community development director's Report. Once the planning commission hearing has been scheduled and noticed in accordance with Section 17.50.090(C) and any other applicable laws, the community development director shall prepare and make available a report on the legislative proposal at least seven days prior to the hearing.
  - 3. Planning Commission Recommendation. At the conclusion of the hearing, the planning commission shall adopt a recommendation on the proposal to the city commission. The planning commission shall make a report and recommendation to the city commission on all legislative

proposals. If the planning commission recommends adoption of some form of the proposal, the planning commission shall prepare and forward to the city commission a report and recommendation to that effect.

- C. City Commission Review.
  - 1. City Commission Action. Upon a recommendation from the planning commission on a legislative action, the city commission shall hold at least one public hearing on the proposal. Any interested person may provide written or oral testimony on the proposal at or prior to the hearing. At the conclusion of the hearing, the city commission may adopt, modify or reject the legislative proposal, or it may remand the matter to the planning commission for further consideration. If the decision is to adopt at least some form of the proposal, and thereby amend the city's land use regulations, comprehensive plan, official zoning maps or some component of any of these documents, the city commission decision shall be enacted as an ordinance.
  - 2. Notice of Final Decision. Not later than five days following the city commission final decision, the community development director shall mail notice of the decision to DLCD in accordance with ORS 197.615(2).

IF YOU HAVE ANY QUESTIONS ABOUT THIS APPLICATION, PLEASE CONTACT KELLY REID IN THE PLANNING DIVISION OFFICE AT 503-722-3789.

## A. PROPOSAL

The proposal is for a variety of amendments to the Oregon City Municipal Code. Although a majority of the amendments provide clarity, improve processes, or remove code conflicts, the more substantial changes include:

- 1. Amendment of standards for lot averaging within subdivisions
- 2. Addition and revision of selected definitions
- 3. Clarification of how dates are calculated
- 4. Allowance for 10% parking reduction adjacent to transit routes
- 5. Removal of specific light bulb and fixture requirements for outdoor lighting
- 6. Amendment to landscaping plan requirements
- 7. Amendment to standards for communication facilities to comply with recent legal decisions

A majority of the amendments are proposed to bring greater clarity or transparency to existing development standards. The complete drafted code amendments can be found in the attached Exhibits and a summary and rationale for each code amendment is found in table 1 below.

Oregon City Municipal Code Section	Summary of Change	Explanation
16.12.050	<ul> <li>Amend lot averaging provisions in subdivisions for the following:</li> <li>Lot sizes allowed to be 10% smaller than zone average rather than 20%</li> <li>Cap the total number of lots that can be smaller than the zone average to 25%.</li> <li>Remove Powerline easements from calculation of net developable area</li> </ul>	Concerns that the provision allowed for too many lots to be below the zoning minimum and the sizes could be too small.

Table 1. Summary of Code Amendments.

17.04.154	Add definition of Building.	Clarify the definition of "building" should be directed to the definition of "structure".
17.04.420	Increase the number of children a family daycare provider may care for from 13 to 16.	Per ORS 329A.440(4), a family daycare provider can have up to 16 children, not 13.
17.04.812	Create definition of "net leasable area".	Net leasable area is used to calculate parking requirements.
17.29.020	Clarify that single and two-family units are permitted when in conjunction with and located in the same building as another permitted use in the zone. This applies to NC, C, MUC-1, MUC-2 and MUD.	Clarifies the intent of the code.
17.49.080	Clarify minimal temporary disturbances.	Clarification of temporary minor disturbance areas.
17.50.030.B 17.50.030.C 17.50.030.D 17.50.030.F	Clarify noticing for Type II-IV processes. Specify that decisions, completeness reviews, appeals, and notices in this Chapter shall be calculated according to OCMC Chapter 1.04.070 and shall be based on calendar days, not business days.	Provides clarification and amends Table 17.50.030 to match code language.
	Amends Table 17.50.030 to match code language for reconsiderations, Historic Review, Extensions, and Natural Resource Overlay District Review.	
17.50.30.B	Clarify who has standing to file an appeal as	Clarifies who has standing to appeal, removes
17.50.120	those who participated orally or in writing in	reference to state statute, and eliminates
17.50.190	the initial decision.	inconsistencies in code.
17.52.020.C.4	Allow reduction of minimum parking by 10% if adjacent to a transit route.	A similar reduction was inadvertently removed from the code.
17.58.040 17.58.040.C 17.58.040.C.2	Clarified that nonconforming upgrades are required for increases to the square footage of a building and/or site improvements which include installation of an additional off-street parking stall.	Clarify when nonconforming upgrades are required.
17.62.035.A.2.a 17.62.035.A.2.b 17.62.035.A.2.u	Clarify that any size demolition qualifies as a Type I Minor Site Plan and Design Review.	Corrects an unintended provision of previous code amendments.
17.62.035.A.2.v	Clarify tree removal as a Type I Minor Site Plan and Design Review.	Applicants could not clearly tell that tree removal was included in landscaping which was already a Type I review.
17.62.050.A.1.c	Exempt landscaping tree removal and/or replacement from submitting a plan by a landscape architect if the new species is on an approved tree list. Allow certified landscape designer, arborist, or nurseryman to approve of projects less than 500 sq. ft. rather than a landscape architect.	Streamline tree and landscape review.

17.62.050.A.1.d	Remove requirement for 10% landscaping for major remodeling.	The code and specific zoning designations provide a landscaping minimums more appropriate to zoning designations.
17.62.050.A.20.d	Remove requirement which conflicts with code section requiring all commercial mechanical changes to be a Type I Site Plan and Design Review.	Remove section which was corrected with the adoption of Type I Site Plan and Design Review.
17.62.050.A.23	Clarify connection between development and nonconforming upgrades.	Clarify code requirements.
17.62.065.D	Remove redundant sections and conflicting standards. Remove bulb requirements. Remove standard related to fixture requirements.	Streamline and clarify language, remove blub requirements to allow emerging technologies.
17.80	Update Communication Facilities chapter to allow a quicker review for some projects.	Amend code to comply with 2012 ruling

## **Background on Lot Averaging Changes**

The City's current code requires that proposed subdivisions (land divisions involving four or more lots) have an average lot size that is at or over the zoning designation – for example, in the R-8 Single Family Dwelling zone the minimum lot size is 8,000 square feet; and the average for each subdivision is required to be at or greater than 8,000 square feet. Lots within a subdivision are permitted to vary from this size by as much as 20% less than the minimum, with no limit to the maximum size.

The changes to lot averaging are the most significant change proposed. The changes stem from citizen comments on proposed subdivision developments in which lot averaging was utilized. Neighbors of the proposed subdivision brought concerns that the existing lot averaging provisions allowed for too many lots within a subdivision to be below the average minimum size, and that the 20% reduction allowance resulted in lots that were significantly smaller than the average for the zone. The subdivisions in question had large powerline easements on some of the lots, which resulted in a few large lots that allowed the subdivision to meet the average zoning minimum.

Chapter 16.12.050 contains the standards in question:

#### 16.12.050 - Calculations of lot area.

A subdivision in the R-10, R-8, R-6, R-5, or R-3.5 dwelling district may include lots that are up to twenty percent less than the required minimum lot area of the applicable zoning designation provided the entire subdivision on average meets the minimum site area requirement of the underlying zone. The average lot area is determined by calculating the total site area devoted to dwelling units and dividing that figure by the proposed number of dwelling lots.

Accessory dwelling units are not included in this determination nor are tracts created for non-dwelling unit purposes such as open space, stormwater tracts, or access ways.

A lot that was created pursuant to this section may not be further divided unless the average lot size requirements are still met for the entire subdivision.

Other standards that affect lot sizes include the minimum density requirement – that subdivisions meet at least 80% of the density allowed by the zone. All cities within the Metro region are required to have a code provision that requires at least 80% minimum density as part of compliance with Title 1. The intent of the standard is to ensure that each jurisdiction provides housing supply for the region at predictable rates in accordance with their planned land uses. Jurisdictions are required to maintain or increase housing capacity by Title 1 of the Metro code, which is also supported and reinforced by Statewide Planning Goals and the City's own Comprehensive Plan.

The City also has minimum lot widths and depths, along with minimum setbacks and maximum lot coverage standards which provide uniformity and levels of certainty for city residents.

Other provisions of the City's code that affect subdivision layout and density are street connectivity requirements along with maximum block lengths. As required in the Regional Transportation Plan, the City requires public street connections every 530 feet maximum in order to provide connectivity in its street network.

Compliance with these requirements can create layout challenges for developers who must meet a certain density threshold while meeting the layout specifications. Allowing lot sizes to vary within subdivisions provides flexibility to allow developers of property to meet minimum density requirements and fit lots which meet dimensional requirements of the zoning designation within the physical constraints of the development boundaries, streets, and environmentally sensitive areas. Throughout the region, local jurisdiction have various standards related to lot averaging. Some do not appear to allow lot averaging, while others have standards similar to Oregon City's. Below is a summary of what several other local jurisdictions allow:

# Happy Valley: Allows lot reduction up to 10 percent of lot area when the overall subdivision meets the required average.

Flexible Lot Size. To allow creativity and flexibility in subdivision design and to address physical constraints, such as topography, existing development, significant trees and other natural and built features, the approval body may grant a ten (10) percent modification to the lot area and/or lot dimension (width/depth) standards in Chapter 16.22, provided that: the overall density of the subdivision does not exceed the allowable density of the district; the minimum lot size for single-family detached lots is not less than five thousand (5,000) square feet within eighty (80) percent of the net developable area of the subject development (and within the twenty (20) percent remainder area, lot sizes may decrease by a maximum of ten (10) percent); and the approval body finds that granting the modification allows for a greater variety of housing types or it improves development compatibility with natural features or adjacent land uses. In addition, the approval body may require that standard size lots be placed at the perimeter of the development where the abutting lots are standard size or larger; except that this provision shall not apply where the abutting lots are larger than twenty thousand (20,000) square feet.

# Hillsboro: Allows lot size reductions for up to 20% of the lots in a subdivision, and lots can be reduced by up to 75% of the minimum required size.

Variations to reduce lot dimensions below the applicable base zone standard may be requested on up to 20% of the lots in a subdivision. Variations may be requested to reduce dimensions up to 75% of the minimum dimension of the applicable base zone. In the case of lot area, variations for "compact lots" must also include provision of "oversized" lots to the extent that the average of areas for all lots meets or exceeds the minimum lot size of the applicable base zone. Lot dimension variations below 75% of the applicable base zone standard shall be approved only through a Variance process.

### West Linn: Offers lot averaging only in Planned Unit Developments.

Tigard: Standards are same as existing Oregon City standards – 20% reduction in size permitted.

Lot size may be averaged to allow lots less than the minimum lot size allowed in the applicable base zone provided the average lot area for all lots is not less than allowed by the applicable base zone. No lot created under this provision shall be less than 80 percent of the minimum lot size allowed in applicable base zone.

# Beaverton: Allows outright lot reduction of up to ten percent on parcels 2 acres or less. Allows Type II adjustment process for reduction of lot size up to ten percent on parcels greater than 2 acres.

# Sherwood: Allows reductions of up to 10% for any number of lots. Also limits maximum sizes (10% greater than underlying zone)

Lot size may be averaged to allow lots less than the minimum lot size allowed in the underlying zoning district subject to the following regulations:

- 1. The average lot area for all lots is not less than allowed by the underlying zoning district.
- 2. No lot created under this provision shall be less than 90 % of the minimum lot size allowed in the underlying zoning district.
- 3. The maximum lot size cannot be greater than 10 % of the minimum lot size.

# Lake Oswego: Lots may be reduced in area up to 20% only when land in development is dedicated as open space.

The amendments recommended by the Planning Commission retain lot averaging provision, but change the extent to which lot averaging can be utilized. The proposed amendments would allow lots to be reduced by 10 percent less than the lot size prescribed by the zone; meaning that in an R-10 zone, the smallest possible lot size would be 9,000 square feet. The proposal also limits the number of lots within each subdivision that can be less than the underlying zone average to 25% of total lots. All subdivisions would still be required to meet the average for the underlying zone, so smaller lots would still need to be balanced with larger lots to ensure the average is met. Lastly, the proposed amendments modify the way net developable area is calculated by removing any area within a powerline easement from net developable area. Powerline easements restrict all structures and thus are de facto not developable. By removing these areas from the developable area calculations, subdivisions will no longer be able to have large lots with powerline easements that count within the averaging calculation.

## B. PUBLIC NOTICE AND COMMENTS

Public Notice was provided more than 20 days prior to the first evidentiary hearing via email to affected agencies, neighborhood associations and Oregon City boards and committees, and published. Notice of the proposed amendment was provided to a variety of groups and government agencies including, Metro and the Department of the Land Conservation and Development. A Measure 56 Notice sent to all properties within the Urban Growth Boundary in December of 2017 after multiple work sessions with the City Commission. The Planning Division held a meeting with the Citizen Involvement Committee on April 3, 2017, a meeting with the Development Stakeholders Group on May 4, 2017, and a Work Session with the Planning Commission on April 10, 2017 to discuss the proposal and how the proposed changes would affect properties.

The City received public comments regarding the proposal and heard public testimony throughout the hearing process. Most of the comments were directed toward the lot averaging amendments. The City

received and heard testimony in favor of and opposed to the changes, along with suggestions to consider. In summary, comments and suggestions included:

- With the existing rules, an R-8 zone can have lots of 6,400 square feet, which is surprising for neighbors who do not know lot averaging rules. Public notices that indicate zoning on a property creates an expectation for a certain lot size, but in reality, lots can be smaller. The public is unaware and not expecting smaller lot sizes.
- The City should allow smaller subdivisions (10 or fewer lots, or 2 acres or less, as examples) to continue to utilize lot averaging as written, because the small subdivisions don't have as much flexibility to modify their layouts. They are mostly infill subdivisions that need lot averaging in order to develop at the zoning densities permitted. The restrictions on lot averaging should apply to just the larger subdivisions, because further restrictions will limit the feasibility of smaller land divisions.
- The City should bring back the Planned Unit Development process; this used to be the way that developers could have flexibility in lot sizes, and it had the added benefit to the City of resulting in open space, parks, or natural areas within developments.
- The lot averaging provisions allow developers to maximize the efficiency of developable land, which is needed during a time when there is a housing shortage and affordability crisis. Less housing means more expensive housing.
- A recently approved development of 28 lots (Lindsay Anne Too) on Leland Road would only be able to fit in 23 lots with the proposed restrictions.
- Lot averaging allows development to accommodate infill development and thus avoid expansion of the urban growth boundary.
- Lot averaging allows development to achieve higher lot yields for development with flexibility to accommodate street patterns and environmental or geographic space constraints.
- The City should add as many lots as possible to accommodate more homes and result in more efficient infrastructure.
- Smaller lots are not compatible with larger lots.
- The smaller lots should not be on the edge of the development. The lot averaging provision is needed for smaller properties to redevelop. Often they are counting on the financial benefit.
- Smaller lot sizes could result in lower house prices and smaller homes, though not guaranteed. This variety could create a vibrant community in which different populations and ages could live within walking distance of each other.

Additional comments supported the code amendments to bring more clarity to development review, and others addressed code amendments which are no longer proposed. The City did hear concern regarding the increase in children being cared for by a family daycare providers.

Comments submitted are attached as Exhibit 4 and addressed in this staff report where applicable.

## C. DECISION-MAKING CRITERIA:

## OREGON CITY MUNICIPAL CODE (OCMC)

Chapter 17.68 Zoning Changes and Amendments17.68.010Initiation of the amendment.

A text amendment to this title or the comprehensive plan, or an amendment to the zoning map or the comprehensive plan map, may be initiated by:

A. A resolution by the commission;

B. An official proposal by the planning commission;

*C.* An application to the planning division presented on forms and accompanied by information prescribed by the planning commission.

All requests for amendment or change in this title shall be referred to the planning commission.

**Response**: This request is for text amendments to the Oregon City Municipal Code and was initiated by the Planning Division on behalf of a request by the City Commission.

## 17.68.020 Criteria.

The criteria for a zone change are set forth as follows:

A. The proposal shall be consistent with the goals and policies of the comprehensive plan.

Statewide Planning Goals are also shown to indicate how the Oregon City Comprehensive Plan (OCCP) Goals and Policies implement the applicable Statewide Planning Goal.

#### STATEWIDE PLANNING GOAL 1 – CITIZEN INVOLVEMENT

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

OCCP Goal 1.1 Citizen Involvement Program

Implement a Citizen Involvement Program that will provide an active and systematic process for citizen participation in all phases of the land-use decision making process to enable citizens to consider and act upon a broad range of issues affecting the livability, community sustainability, and quality of neighborhoods and the community as a whole.

OCCP Policy 1.1.1

Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.

OCCP Goal 1.2 Community and Comprehensive Planning

Ensure that citizens, neighborhood groups, and affected property owners are involved in all phases of the comprehensive planning program.

OCCP Policy 1.2.1

Encourage citizens to participate in appropriate government functions and land-use planning.

OCCP Policy 1.2.1

Encourage development and refinement of CIC and neighborhood association bylaws that will govern the groups' formation and operations.

OCCP Goal 1.3 Community Education

Provide education for individuals, groups, and communities to ensure effective participation in decision-making processes that affect the livability of neighborhoods.

OCCP Goal 1.4 Community Involvement

Provide complete information for individuals, groups, and communities to participate in public policy planning and implementation of policies.

OCCP Policy 1.4.1

Notify citizens about community involvement opportunities when they occur.

**Finding: Complies as Proposed.** Many of the proposed code amendments were first identified by citizens or those in the development process.

The amendments were presented to the Citizen Involvement Committee and the Development Stakeholders Group as well as in two work sessions with the Planning Commission and City Commission prior to the first public hearing. In addition, the application was posted on the City website, emailed to various entities including neighborhood associations and the Citizen Involvement Committee, and posted in a general circulation newspaper. Notice of the amendments was mailed to all property owners within the Urban Growth Boundary in December of 2017.

#### STATEWIDE PLANNING GOAL 2 - LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. OCCP Goal 2.1 Efficient Use of Land

Ensure that property planned for residential, commercial, office, and industrial uses is used efficiently and that land is developed following principles of sustainable development.

**Finding: Complies as Proposed.** The proposed code amendments include clarifications that give applicants more certainty and clarity about city codes. That certainty provides confidence for applicants to understand if their development or redevelopment plans comply with the standards in the Oregon City Municipal Code.

The amendments to the lot averaging section of the code will reduce the net developable area calculation for any new residential subdivisions within powerline easements, and will likely slightly reduce the number of units per gross acre that are permitted by limiting flexibility within land divisions. The overall impact of the amendment is anticipated to be relatively small in relationship to the overall housing capacity in the City. Though a majority of land within powerline easements in the City is currently developed, the proposed amendment to exclude powerline easement areas is likely to reduce the number of lots yielded from land divisions. Furthermore, the impact of reducing the smallest lot size as well as limiting the percentage of lots below the zoning minimum under the lot averaging amendments is likely to affect the layout and lot count for some subdivisions, resulting in slightly fewer lots than may otherwise fit within a subdivision. Nonetheless, the minimum density standards of 80% will continue to apply, which will ensure that land is developed with the required efficiency. The City analyzed all proposed subdivisions submitted in 2016 and 2017. Of the ten subdivisions submitted, nine of them utilized lot averaging, and all nine of those had more than 25% of lots less than the average. Some of these subdivisions may have been able to re-arrange the layout and still meet the new proposed standards, however, it is likely that not all of them would have been able to do so without an impact on the size or layout of the subdivision. Three of the ten proposed subdivisions from the last two years contain powerline easement areas.

### OCCP Goal 2.4 Neighborhood Livability

Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.

**Finding: Complies as Proposed.** Public testimony on this amendment has covered the spectrum of opinions on livability. Generally, the code amendments provide greater clarity to both the development community as well as the public in understanding the range of development opportunities. The reduction in lot size variation will result in greater uniformity of lot sizes. Greater uniformity of lot sizes is perceived by some community members as a positive contribution to neighborhood livability, while others perceive less variation as detrimental to livability and a sense of place.

Testimony in favor of greater restrictions on lot averaging has included concerns about subdivisions that have numerous lots that are smaller than the underlying zone average, especially when they are placed adjacent to existing lots that meet or exceed the zone average. The concern here is focused on compatibility. An example given was two 6,500 square foot lots behind a lot that is 10,000 to 12,000 square feet.

Other public testimony included support for variation in lot sizes due to the aesthetic variety it provides, along with the greater opportunity for different size families available at different ranges, and

potentially a variety of generations and people of varying socioeconomic backgrounds that could live within the same neighborhood.

#### STATEWIDE PLANNING GOAL 3: AGRICULTURAL LANDS

**Finding: Complies as Proposed.** The proposed amendments would not preclude the use of agricultural lands.

#### STATEWIDE PLANNING GOAL 4: FOREST LANDS

Finding: Complies as Proposed. The proposed amendments would not preclude the use of forest lands.

STATEWIDE PLANNING GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES Statewide Planning Goal 5 requires that open spaces and natural, scenic, and historic resources be protected. OCCP Goal 5.3 Historic Resources

Encourage the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City.

**Finding: Complies as Proposed.** The proposed amendments would not preclude the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City.

#### Goal 5.4 Natural Resources

Identify and seek strategies to conserve and restore Oregon City's natural resources, including air, surface and subsurface water, geologic features, soils, vegetation, and fish and wildlife, in order to sustain quality of life for current and future citizens and visitors, and the long-term viability of the ecological systems.

**Finding: Complies as Proposed.** The proposed amendments include an amendment to exemptions in the Natural Resources Overlay Zone, clarifying how temporary disturbance areas should be treated. No material changes to how the overlay zone is regulated are proposed.

## STATEWIDE PLANNING GOAL 6: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

**Finding: Complies as Proposed.** The overlay districts, such as the Natural Resource Overlay District, Flood Management Overlay, and Geologic Hazards Overlay will apply regardless of the proposed changes.

STATEWIDE PLANNING GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

OCCP Goal 7.1 Natural Hazards

Protect life and reduce property loss from the destruction associated with natural hazards **Finding: Complies as Proposed.** The proposed amendments will not affect natural hazards overlay districts. The overlay districts, such as the Flood Management Overlay, and Geologic Hazards Overlay will apply regardless of the proposed changes.

#### STATEWIDE PLANNING GOAL 8: RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts. **Finding: Complies as Proposed.** The proposed amendments do not impact parks and recreation.

STATEWIDE GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens. OCCP Policy 9.2.1 Seek input from local businesses when making decisions that will have a significant economic impact on them. **Finding: Complies as Proposed.** The proposal was sent to the Chamber of Commerce, Oregon City Business Alliance, as well as the Development Stakeholder Group for comments.

#### OCCP Policy 9.2.2

Carefully consider the economic impacts of proposed programs and regulations in the process of implementing the City's Comprehensive Plan.

**Finding: Complies as Proposed.** The proposal includes clarifications that will provide greater levels of certainty for developers of property. The amendments also streamline some aspects of the development review process.

### OCCP Policy 9.2.3

Simplify, streamline, and continuously improve the permitting and development review process. **Finding: Complies as Proposed.** The proposal includes clarifications that will provide greater levels of certainty for developers of property. The amendments also streamline some aspects of the development review process.

#### STATEWIDE PLANNING GOAL 10: HOUSING

To provide for the housing needs of citizens of the state. OCCP Policy 10.1.4

Aim to reduce the isolation of income groups within communities by encouraging diversity in housing types within neighborhoods consistent with the Clackamas County Consolidated Plan, while ensuring that needed affordable housing is provided.

**Finding: Complies as Proposed.** A vast majority of the code amendments provide clarity to the existing code standards resulting in greater certainty for the development community. This certainty may result in a small reduction in barriers to new housing redevelopment.

However, the proposed code amendments reduce the opportunities for lot averaging in subdivisions. The lot averaging provisions will apply to new subdivisions within the R-10, R-8, R-6, R-5 and R-3.5 zones. Currently, lot sizes are permitted to vary and be less than the minimum zone average by 20 percent. The new limitations proposed to lot averaging may affect the layout and lot count for some subdivisions, resulting in fewer lots than may otherwise fit within a subdivision. However, there is no guarantee that allowing for lot averaging at current levels result in home costs which are significantly less expensive then under the more restrictive scheme recommended by the Planning Commission. Minimum density standards will continue to apply to all new subdivisions.

The amendments reduce the net developable area calculation for any new residential subdivisions with powerline easements, and will thus slightly reduce the number of units per gross acre that are permitted in these areas. Only a small portion of the City is affected by powerline easements; thus, this amendment is likely to have a *de minimis* impact on the overall number of units constructed in the City. However, the City has not completed a housing inventory or housing needs analysis since 2002. Regional data show a lack of affordable housing across the region, and some jurisdictions have declared a housing emergency in recent years. According to a 2015 study, there are approximately 103,000 units of housing (including regulated and market-rate units) in the four-county Portland region that are affordable to people earning less than 60 percent of median income. With more than 185,000 households making less than 60 percent of median income, that leaves a shortage of more than 80,000 units of affordable housing (Exhibit 5). While the city is currently in compliance with state and regional requirements for housing, the lack of recent data and analysis creates uncertainty with regard to the impact of these provisions on Oregon City's provision of housing diversity and density. Reducing the variation of lot sizes within each zone and subdivision will not further the goal of encouraging diversity of housing types within neighborhoods. However, the City has a variety of zoning districts throughout

the City that provide a diversity of housing sizes and types and the City finds that the provision of housing options through zoning district variety satisfies this policy.

#### OCCP Policy 10.1.7

Use a combination of incentives and development standards to promote and encourage well-designed single-family subdivisions and multi-family developments that result in neighborhood livability and stability.

**Finding: Complies as Proposed.** The proposed code amendments reduce the opportunities for lot averaging in subdivisions. The lot averaging provisions apply to new subdivisions within the R-10, R-8, R-6, R-5 and R-3.5 zones. Currently, lot sizes are permitted to vary and be less than the minimum zone average by 20 percent. The new limitations proposed to lot averaging may affect the layout and lot count for some subdivisions, resulting in fewer lots than may otherwise fit within a subdivision. However, minimum density standards will continue to apply to all new subdivisions.

Public testimony on this amendment has covered the spectrum of opinions on livability and stability. Testimony in favor of the proposed, or even greater restrictions on lot averaging have raised compability concerns when new subdivisions that have numerous lots that are smaller than the underlying zone average, especially when they are placed adjacent to existing lots that meet or exceed the zone average. An example given was two 6,500 square foot lots behind a lot that is 10,000 to 12,000 square feet.

Other public testimony included support for variation in lot sizes due to the aesthetic variety it provides, along with the greater opportunity for different size families, and potentially attracting a variety of new residents of varying ages and socioeconomic backgrounds that could live within the same neighborhood.

Considering these concerns together the City concludes that providing some greater uniformity of lot size will enhance neighborhood livability objectives.

### OCCP Goal 10.1 Diverse Housing Opportunities

Provide for the planning, development and preservation of a variety of housing types and lot sizes. **Finding: Complies as Proposed.** The proposed code amendments limit lot averaging in subdivisions. The lot averaging provisions apply to new subdivisions within the R-10, R-8, R-6, R-5 and R-3.5 zones. Currently, lot sizes are permitted to vary and be less than the minimum zone average by 20 percent. The new limitations proposed to lot averaging may affect the layout and lot count for some subdivisions, resulting in fewer lots than may otherwise fit within a subdivision. Minimum density standards will continue to apply to all new subdivisions.

The reduction in lot size variation that will likely result from the amendments will result in greater uniformity of lot sizes within each zone. Reducing the variation of lot sizes within each zone and subdivision will not further the goal of encouraging a variety of housing types within neighborhoods. That said, the City has a variety of zoning districts throughout the City that provide a diversity of housing sizes and types. No zone changes are proposed with this amendment.

#### STATEWIDE PLANNING GOAL 11: PUBLIC FACILITIES AND SERVICES

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Finding: Complies as Proposed. The proposed amendments have no impact on public facilities.

#### STATEWIDE PLANNING GOAL 12: TRANSPORTATION

To provide and encourage a safe, convenient and economic transportation system. **Finding: Complies as Proposed.** The proposed amendments have no impact on transportation.

**B.** That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone, or can be made

available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone.

**Finding: Complies as Proposed.** The proposal does not change uses allowed in any zoning districts or the ability of services and facilities.

C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district.
 Finding: Complies as Proposed. No land uses are proposed to change and this proposal will have no impact on the transportation system.

**D.** Statewide planning goals shall by addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment.

**Finding: See responses above.** The Oregon City Comprehensive Plan addresses the Statewide Planning Goals, as shown above under the findings in this staff report.

## D. RECOMMENDATION

Staff recommends that the Commission approve the proposed text amendments to Chapters 16 and 17 of the municipal code as recommended by the Planning Commission.

## E. EXHIBITS

- 1. Narrative and Code Responses
- 2. Proposed Amendments to the Oregon City Municipal Code
- 3. Public Comments
- 4. 2015 Regional Inventory of Affordable Housing Report
- 5. Exhibit 5: Approximate Powerline Corridors



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## L 17-04 Code Amendments

Narrative and Code Responses

## Proposed Project

Staff has proposed a variety of minor amendments to the Oregon City Municipal Code. Although a majority of the amendments provide clarity, improve processes, or remove code conflicts, the more substantial changes include:

- 1. Amending language for lot averaging
- 2. Removing the ability to reconsider a final decision
- 3. Clarify how dates are calculated
- 4. Remove light bulb requirements
- 5. Allow 10% parking reduction adjacent to transit routes

The complete drafted code amendments can be found in the attached Exhibits.

## Code responses

Chapter 17.68 Zoning Changes and Amendments

17.68.010 Initiation of the amendment.

A text amendment to this title or the comprehensive plan, or an amendment to the zoning map or the comprehensive plan map, may be initiated by:

A. A resolution by the commission;

B. An official proposal by the planning commission;

C. An application to the planning division presented on forms and accompanied by information prescribed by the planning commission.

All requests for amendment or change in this title shall be referred to the planning commission. Response: This request is for text amendments to the Oregon City Municipal Code and was initiated by the Planning Division on behalf of a request by the City Commission.

17.68.020 Criteria.

The criteria for a zone change are set forth as follows:

A. The proposal shall be consistent with the goals and policies of the comprehensive plan.

Statewide Planning Goals are also shown to indicate how the Oregon City Comprehensive Plan (OCCP) Goals and Policies implement the applicable Statewide Planning Goal.

STATEWIDE PLANNING GOAL 1 – CITIZEN INVOLVEMENT

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

OCCP Goal 1.1 Citizen Involvement Program

Implement a Citizen Involvement Program that will provide an active and systematic process for citizen participation in all phases of the land-use decision making process to enable citizens to consider and act upon a broad range of issues affecting the livability, community sustainability, and quality of neighborhoods and the community as a whole.

OCCP Policy 1.1.1

Utilize neighborhood associations as the vehicle for neighborhood-based input to meet the requirements of the Land Conservation and Development Commission (LCDC) Statewide Planning Goal 1, Citizen Involvement. The Citizen Involvement Committee (CIC) shall serve as the officially recognized citizen committee needed to meet LCDC Statewide Planning Goal 1.

OCCP Goal 1.2 Community and Comprehensive Planning

Ensure that citizens, neighborhood groups, and affected property owners are involved in all phases of the comprehensive planning program.

OCCP Policy 1.2.1

Encourage citizens to participate in appropriate government functions and land-use planning. OCCP Policy 1.2.1

Encourage development and refinement of CIC and neighborhood association bylaws that will govern the groups' formation and operations.

OCCP Goal 1.3 Community Education

Provide education for individuals, groups, and communities to ensure effective participation in decisionmaking processes that affect the livability of neighborhoods.

OCCP Goal 1.4 Community Involvement

Provide complete information for individuals, groups, and communities to participate in public policy planning and implementation of policies.

OCCP Policy 1.4.1

Notify citizens about community involvement opportunities when they occur.

Response: The proposed code amendments to Lot Averaging were first identified by citizens whom came before the City Commission. The City Commission met to discuss this topic multiple times before providing direction to staff regarding these changes. The other proposed amendments were identified by staff as corrections and clarifications, and changes to processes to eliminate areas of conflict.

The amendments will be presented to the Citizen Involvement Committee as well as in a work session with the Planning Commission prior to the first public hearing. In addition, the application will be posted on the City website, emailed to various entities including neighborhood associations and the Citizen Involvement Committee, and posted in a general circulation newspaper.

## STATEWIDE PLANNING GOAL 2 – LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. OCCP Goal 2.1 Efficient Use of Land

Ensure that property planned for residential, commercial, office, and industrial uses is used efficiently and that land is developed following principles of sustainable development.

Response: The proposed code amendments include clarifications that give applicants more certainty and clarity about city codes. Limiting the ability for lot size averaging in subdivisions may reduce the ability to use land as efficiently as was previously permitted.

## OCCP Goal 2.4 Neighborhood Livability

Provide a sense of place and identity for residents and visitors by protecting and maintaining neighborhoods as the basic unit of community life in Oregon City while implementing the goals and policies of the other sections of the Comprehensive Plan.

Response: The proposed code amendments include limits to lot averaging for subdivisions, which will lead to more uniform lot sizes within subdivisions.

STATEWIDE PLANNING GOAL 3: AGRICULTURAL LANDS Response: The proposed amendments would not preclude the use of agricultural lands.

## STATEWIDE PLANNING GOAL 4: FOREST LANDS

Response: The proposed amendments would not preclude the use of forest lands.

STATEWIDE PLANNING GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES Statewide Planning Goal 5 requires that open spaces and natural, scenic, and historic resources be protected.

OCCP Goal 5.3 Historic Resources

Encourage the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City.

Response: The proposed amendments would not preclude the preservation and rehabilitation of homes and other buildings of historic or architectural significance in Oregon City.

## Goal 5.4 Natural Resources

Identify and seek strategies to conserve and restore Oregon City's natural resources, including air, surface and subsurface water, geologic features, soils, vegetation, and fish and wildlife, in order to sustain quality of life for current and future citizens and visitors, and the long-term viability of the ecological systems.

Response: The proposed amendments include an amendment to exemptions in the Natural Resources Overlay Zone, clarifying that fences within the NROD are exempt from review. The impact of fence posts is not significant and is similar to other activities that are exempt.

## STATEWIDE PLANNING GOAL 6: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

Response: The overlay districts, such as the Natural Resource Overlay District, Flood Management Overlay, and Geologic Hazards Overlay will apply regardless of the proposed changes.

## STATEWIDE PLANNING GOAL 7: AREAS SUBJECT TO NATURAL HAZARDS

To protect people and property from natural hazards.

OCCP Goal 7.1 Natural Hazards

Protect life and reduce property loss from the destruction associated with natural hazards Response: The proposed amendments will not affect natural hazards overlay districts. The overlay districts, such as the Flood Management Overlay, and Geologic Hazards Overlay will apply regardless of the proposed changes.

## STATEWIDE PLANNING GOAL 8: RECREATIONAL NEEDS

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts. Response: The proposed amendments do not impact parks and recreation.

## STATEWIDE GOAL 9: ECONOMIC DEVELOPMENT

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens. OCCP Policy 9.2.1 Seek input from local businesses when making decisions that will have a significant economic impact on them.

Response: The proposal will be sent to the Chamber of Commerce, Oregon City Business Alliance, as well as the Development Stakeholder Group for comments.

## OCCP Policy 9.2.2

Carefully consider the economic impacts of proposed programs and regulations in the process of implementing the City's Comprehensive Plan.

Response: The proposal includes clarifications that will provide greater levels of certainty for developers of property. The amendments also streamline some aspects of the development review process.

## OCCP Policy 9.2.3

Simplify, streamline, and continuously improve the permitting and development review process. Response: The proposal includes clarifications that will provide greater levels of certainty for developers of property. The amendments also streamline some aspects of the development review process.

## STATEWIDE PLANNING GOAL 10: HOUSING

To provide for the housing needs of citizens of the state.

OCCP Policy 10.1.4

Aim to reduce the isolation of income groups within communities by encouraging diversity in housing types within neighborhoods consistent with the Clackamas County Consolidated Plan, while ensuring that needed affordable

housing is provided.

OCCP Policy 10.1.7

Use a combination of incentives and development standards to promote and encourage well-designed single-family subdivisions and multi-family developments that result in neighborhood livability and stability.

OCCP Goal 10.1 Diverse Housing Opportunities

Provide for the planning, development and preservation of a variety of housing types and lot sizes. Response: The proposed code amendments limit lot averaging in subdivisions. This could have an impact on diversity of housing and limit the variety of housing types and sizes. The lot averaging provisions apply to new subdivisions within the R-10, R-8, R-6, R-5 and R-3.5 zones. Currently, lot sizes are permitted to vary and be less than the minimum zone average by 20%. The amendments would limit the size reduction to 10% and only allow a quarter of all lots in any one subdivision to be below the minimum. While this would provide uniformity, it also could lead to reductions in the total number of lots that are created due to constraints of subdivision layouts.

## STATEWIDE PLANNING GOAL 11: PUBLIC FACILITIES AND SERVICES

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Response: The proposed amendments have no impact on public facilities.

## STATEWIDE PLANNING GOAL 12: TRANSPORTATION

To provide and encourage a safe, convenient and economic transportation system. Response: The proposed amendments have no impact on transportation. B. That public facilities and services (water, sewer, storm drainage, transportation, schools, police and fire protection) are presently capable of supporting the uses allowed by the zone, or can be made available prior to issuing a certificate of occupancy. Service shall be sufficient to support the range of uses and development allowed by the zone.

Response: The proposal does not change uses allowed in any zoning districts.

C. The land uses authorized by the proposal are consistent with the existing or planned function, capacity and level of service of the transportation system serving the proposed zoning district. Response: No land use changes are proposed.

D. Statewide planning goals shall by addressed if the comprehensive plan does not contain specific policies or provisions which control the amendment. Response: See responses above. The Oregon City Comprehensive Plan addresses the Statewide Planning Goals, as shown above under the findings for Criterion A.

## Proposed Changes to the Oregon City Municipal Code

Note language subject to change throughout the review process. Code additions have <u>underlines</u>, extractions have <del>strike through</del>.

## March 13, 2018

Oregon City Municipal Code Section	Summary of Change	Explanation
16.12.050	<ul> <li>Amend lot averaging provisions in subdivisions for the following: <ul> <li>Lot sizes allowed to be 10% smaller than zone average rather than 20%</li> <li>Cap the total number of lots that can be smaller than the zone average to 25%.</li> <li>Remove Powerline easements from calculation of net developable area</li> </ul> </li> </ul>	Concerns that the provision allowed for too many lots to be below the zoning minimum and the lot sizes could be too small.
17.04.154	Add definition of Building.	Clarify the definition of "building" should be directed to the definition of "structure".
17.04.420	Increase the number of children a family daycare provider may care for from 13 to 16.	Per ORS 329A.440(4), a family daycare provider can have up to 16 children, not 13.
17.04.812	Create definition of "net leasable area".	Net leasable area is used to calculate parking requirements.
17.29.020	Clarify that single and two-family units are permitted when in conjunction with and located in the same building as another permitted use in the zone. This applies to NC, C, MUC-1, MUC-2 and MUD.	Clarifies the intent of the code.
17.49.080	Clarify minimal temporary disturbances.	Clarification of temporary minor disturbance areas.
17.50.030.B 17.50.030.C 17.50.030.D 17.50.030.F	Clarify noticing for Type II-IV processes. Specify that decisions, completeness reviews, appeals, and notices in this Chapter shall be calculated according to OCMC Chapter 1.04.070 and shall be based on calendar days, not business days. Amends Table 17.50.030 to match code	Provides clarification and amends Table 17.50.030 to match code language.
	language for reconsiderations, Historic Review, Extensions, and Natural Resource Overlay District Review.	
17.50.30.B 17.50.120 17.50.190	Clarify who has standing to file an appeal as those who participated orally or in writing in the initial decision.	Clarifies who has standing to appeal, removes reference to state statute, and eliminates inconsistencies in code.
17.52.020.C.4	Allow reduction of minimum parking by 10% if adjacent to a transit route or near a transit stop.	A similar reduction was inadvertently removed from the code.

17.58.040	Clarified that nonconforming upgrades are	Clarify when nonconforming upgrades are required.
17.58.040.C	required for increases to the square footage of a	cianty when noncomorning upgrades are required.
17.58.040.C.2	building and/or site improvements which include	
17.50.010.0.2	installation of an additional off-street parking	
	stall.	
17.62.035.A.2.a	Clarify that any size demolition qualifies as a	Corrects an unintended provision of previous code
17.62.035.A.2.b	Type I Minor Site Plan and Design Review.	amendments.
17.62.035.A.2.u		
17.62.035.A.2.v	Clarify tree removal as a Type I Minor Site Plan	Applicants could not clearly tell that tree removal
	and Design Review.	was included in landscaping which was already a
		Type I review.
17.62.050.A.1.c	Exempt landscaping tree removal and/or	Streamline tree and landscape review.
	replacement from submitting a plan by a	
	landscape architect if the new species is on an	
	approved tree list. Allow certified landscape	
	designer, arborist, or nurseryman to approve of	
	projects less than 500 sq. ft. rather than a	
	landscape architect.	
17.62.050.A.1.d	Remove requirement for 10% landscaping for	The code and specific zoning designations provide a
	major remodeling.	landscaping minimums more appropriate to zoning
		designations.
17.62.050.A.20.d	Remove requirement which conflicts with code	Remove section which was corrected with the
	section requiring all commercial mechanical	adoption of Type I Site Plan and Design Review.
	changes to be a Type I Site Plan and Design	
	Review.	
17.62.050.A.23	Clarify connection between development and	Clarify code requirements.
	nonconforming upgrades.	
17.62.065.D	Remove redundant sections and conflicting	Streamline and clarify language, remove blub
	standards.	requirements to allow emerging technologies.
	Remove bulb requirements.	
	Remove standard related to fixture	
	requirements.	
17.80	Update Communication Facilities chapter to	Amend code to comply with 2012 ruling
	allow a quicker review for some projects.	

#### 16.12.050 -- Calculations of lot area Lot Size Reduction.

<u>Up to 25% of the lots in a</u>A subdivision in the R-10, R-8, R-6, R-5, or R-3.5 dwelling district may include lots that are <u>be</u> up to twenty ten percent less than the required minimum lot area of the applicable zoning designation provided the <u>lots within the</u> entire subdivision on average meets the minimum site area requirement of the underlying zone. Any area within a powerline easement on a lot shall not count towards the lot area for that lot.

The average lot area is determined by <u>first</u> calculating the total site area devoted to dwelling units, <u>subtracting the powerline easement areas</u>, and dividing that figure by the proposed number of dwelling lots.

Accessory dwelling units are not included in this determination nor are tracts created for non-dwelling unit purposes such as open space, stormwater tracts, or access ways.

A lot that was created pursuant to this section may not be further divided unless the average lot size requirements are still met for the entire subdivision.

When a lot abuts a public alley, an area equal to the length of the alley frontage along the lot times the width of the alley right-of-way measured from the alley centerline may be added to the area of the abutting lot in order to satisfy the lot area requirement for the abutting lot. It may also be used in calculating the average lot area.

## **REMAINING CODE AMENDMENTS**

17.04.154 – Building. "Building" means structure.

**17.04.420 - Family day care provider.** "Family day care provider" means a day care provider who regularly provides day care to fewer than thirteen sixteen children, including the children of the provider, regardless of full-time or part-time status, in the provider's home in the family living quarters. Provisions of day care to thirteen sixteen or more children in the home of the provider shall constitute the operations of a "day care facility," as defined in this chapter, and shall be subject to the requirements of this title for day care facilities. A family day care provider to ten or more children-shall satisfy the certification requirements of the children's services division Office of Child Care.

## 17.04.812 Net Leasable Area.

Actual square-footage of a building or outdoor area that may be leased or rented to tenants, which excludes parking lots, common areas, shared hallways, elevator shafts, stairways, and space devoted to cooling, heating, or other equipment.

## 17.29.020 - Permitted uses—MUC-1 and MUC-2.

- A. Banquet, conference facilities and meeting rooms;
- B. Bed and breakfast and other lodging facilities for up to ten guests per night;
- C. Child care centers and/or nursery schools;
- D. Indoor entertainment centers and arcades;
- E. Health and fitness clubs;
- F. Medical and dental clinics, outpatient; infirmary services;
- G. Museums, libraries and cultural facilities;
- H. Offices, including finance, insurance, real estate and government;
- I. Outdoor markets, such as produce stands, craft markets and farmers markets that are operated on the weekends and after six p.m. during the weekday;
- J. Postal services;
- K. Parks, playgrounds, play fields and community or neighborhood centers;
- L. Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment;
- M. Residential units, multi-family;
- N. Residential units, single and two-family in the same building as another permitted use in the zone;
- <u>O</u>N. Restaurants, eating and drinking establishments without a drive through;
- <u>P</u>O. Services, including personal, professional, educational and financial services; laundry and dry-cleaning;
- <u>Q</u>P. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores, marijuana pursuant to Section 17.54.110, and similar, provided the maximum footprint for a stand-alone building with a single store or multiple buildings with the same business does not exceed sixty thousand square feet;
- <u>RQ</u>. Seasonal sales, subject to OCMC Section 17.54.060;
- SR. Assisted living facilities; nursing homes and group homes for over fifteen patients;

- <u>TS</u>. Studios and galleries, including dance, art, photography, music and other arts;
- <u>U</u>∓. Utilities: Basic and linear facilities, such as water, sewer, power, telephone, cable, electrical and natural gas lines, not including major facilities such as sewage and water treatment plants, pump stations, water tanks, telephone exchanges and cell towers;
- <u>V</u>U. Veterinary clinics or pet hospitals, pet day care;
- <u>W</u>¥. Home occupations;
- <u>X</u>W. Research and development activities;
- YX. Temporary real estate offices in model dwellings located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- ZY. Residential care facility;
- AAZ. Transportation facilities;

ABAA. Live/work units, pursuant to Section 17.54.105—Live/work units.

## 17.49.[0]80 - Uses allowed outright (exempted).

The following uses are allowed within the NROD and do not require the issuance of an NROD permit:

- A. Stream, wetland, riparian, and upland restoration or enhancement projects as authorized by the city.
- B. Farming practices as defined in ORS 215.203 and farm uses, excluding buildings and structures, as defined in ORS 215.203.
- C. <u>Utility service using a single utility pole or where no more than one hundred square feet of ground</u> <u>surface is disturbed outside of the top-of-bank of water bodies and where the disturbed area is restored</u> <u>to the pre-construction conditions.</u>
- D. Boundary and topographic surveys leaving no cut scars greater than three inches in diameter on live parts of native plants listed in the Oregon City Native Plant List.
- E. Soil tests, borings, test pits, monitor well installations, and other minor excavations necessary for geotechnical, geological or environmental investigation, provided that disturbed areas are restored to pre-existing conditions as approved by the community development director.
- F. Trails meeting all of the following:
  - 1. Construction shall take place between May 1 and October 30 with hand held equipment;
  - 2. Widths shall not exceed forty-eight inches and trail grade shall not exceed twenty percent;
  - 3. Construction shall leave no scars greater than three inches in diameter on live parts of native plants;
  - 4. Located no closer than twenty-five feet to a wetland or the top of banks of a perennial stream or ten feet of an intermittent stream;
  - 5. No impervious surfaces; and
  - 6. No native trees greater than one-inch in diameter may be removed or cut, unless replaced with an equal number of native trees of at least two-inch diameter and planted within ten feet of the trail.
- G. Land divisions provided they meet the following standards, and indicate the following on the final plat:
  - 1. Lots shall have their building sites (or buildable areas) entirely located at least five feet from the NROD boundary shown on the city's adopted NROD map. For the purpose of this subparagraph, "building site" means an area of at least three thousand five hundred square feet with minimum dimensions of forty feet wide by forty feet deep;
  - 2. All public and private utilities (including water lines, sewer lines or drain fields, and stormwater disposal facilities) are located outside the NROD;
  - 3. Streets, driveways and parking areas where all pavement shall be located at least ten feet from the NROD; and
  - 4. The NROD portions of all lots are protected by:
  - a. A conservation easement; or
  - b. A lot or tract created and dedicated solely for unimproved open space or conservation purposes.
- H. Site Plan and Design Review applications where all new construction is located outside of the NROD boundary shown on the city's adopted NROD map, and the NROD area is protected by a conservation easement approved in form by the city.

- I. Routine repair and maintenance of existing structures, roadways, driveways and utilities.
- J. Replacement, additions, alterations and rehabilitation of existing structures, roadways, utilities, etc., where the ground level impervious surface area is not increased.
- K. Measures mandated by the City of Oregon City to remove or abate nuisances or hazardous conditions.
- L. Planting of native vegetation and the removal of non-native, invasive vegetation (as identified on the Oregon City Native Plant List), and removal of refuse and fill, provided that:
  - 1. All work is done using hand-held equipment;
  - 2. No existing native vegetation is disturbed or removed; and
  - 3. All work occurs outside of wetlands and the top-of-bank of streams.
- M.—<u>Fences in which posts disturb no more than one hundred square feet of ground surface outside of the</u> top of bank of water bodies
- <u>MN</u>. Activities in which no more than one hundred square feet of ground surface is disturbed outside of the bankfull stage of water bodies and where the disturbed area is restored to the pre-construction conditions, notwithstanding that disturbed areas that are predominantly covered with invasive species shall be required to remove the invasive species from the disturbance area and plant trees and native plants pursuant to this Chapter.

#### 17.50.030 - Summary of the city's decision-making processes.

The following decision-making processes chart shall control the city's review of the indicated permits:

## Table 17.50.030

#### PERMIT APPROVAL PROCESS

PERMIT TYPE	I	П	111	IV	Expedited Land Division
Annexation With or Without a Zone Change				<u>X</u>	
Compatibility Review	X				
Code Interpretation			X		
General Development Plan			X		
Conditional Use			x		
Detailed Development Plan <sup>1</sup>	X	X	X		
Extension	X	×			
Final Plat	X				
Geologic Hazards		X			
Historic Review	X		X		
Lot Line Adjustment and Abandonment	X				
Major Modification to a Prior Approval <sup>2</sup>	X	X	x	X	Х
Minor Modification to a Prior Approval	X				
Minor Partition		X			
Nonconforming Use, Structure and Lots Review	X	x			
Reconsideration Plan or Code Amendment	X			<u>x</u>	
Revocation				X	
Site Plan and Design Review	X	x			

Subdivision		x			Х
Variance		х	х		
Zone Change and Plan Amendment				х	
Zone Change Upon Annexation with No Discretion	×			×	
Zone Change Upon Annexation with Discretion				×	
Natural Resource Overlay District Exemption	X				
Natural Resource Overlay District Review		x	<u>X</u>		

<sup>1</sup> If any provision or element of the master plan requires a deferred Type III procedure, the detailed development plan shall be processed through a Type III procedure.

<sup>2</sup> A major modification to a prior approval shall be considered using the same process as would be applicable to the initial approval.

- A. Type I decisions do not require interpretation or the exercise of policy or legal judgment in evaluating approval criteria. Because no discretion is involved, Type I decisions do not qualify as a land use, or limited land use, decision. The decision-making process requires no notice to any party other than the applicant. The community development director's decision is final and not appealable by any party through the normal city land use process.
- B. Type II decisions involve the exercise of limited interpretation and discretion in evaluating approval criteria, similar to the limited land use decision-making process under state law. Applications evaluated through this process are assumed to be allowable in the underlying zone, and the inquiry typically focuses on what form the use will take or how it will look. Notice of application and an invitation to comment is mailed to the applicant, recognized active neighborhood association(s) and property owners within three hundred feet. The community development director accepts comments for a minimum of fourteen days and renders a decision. The community development director's decision is appealable to the city commission with notice to the planning commission, by any party with standing who submitted comments in writing before the expiration of the comment period. Review by the City Commission shall be on the record pursuant to Section 17.50.190. (i.e., applicant and any party who submitted comments during the comment period)under ORS 227.175.10(a)(eC). Review of the development director's decision will be de novo. The city commission decision is the city's final decision and is appealable subject to review by to the Land Use Board of Appeals (LUBA) within twenty-one days of when it becomes final.
- C. Type III decisions involve the greatest amount of discretion and evaluation of subjective approval standards, yet are not required to be heard by the city commission, except upon appeal. In the event that any decision is not classified, it shall be treated as a Type III decision. The process for these land use decisions is controlled by ORS 197.763. Notice of the application and the planning commission or the historic review board hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission or historic review board, all issues are addressed. The decision of the planning commission or historic review board is appealable to the city commission, on the record <u>pursuant to Section 17.50.190</u>. The city commission decision and is <del>appealable to</del> <u>subject to review by</u> LUBA within twenty-one days of when it becomes final, <u>unless otherwise provided by state law</u>.
- D. Type IV decisions include only quasi-judicial plan amendments and zone changes. These applications involve the greatest amount of discretion and evaluation of subjective approval standards and must be heard by the city commission for final action. The process for these land use decisions is controlled

by ORS 197.763. Notice of the application and planning commission hearing is published and mailed to the applicant, recognized neighborhood association(s) and property owners within three hundred feet. Notice must be issued at least twenty days pre-hearing, and the staff report must be available at least seven days pre-hearing. At the evidentiary hearing held before the planning commission, all issues are addressed. If the planning commission denies the application, any party with standing (i.e., anyone who appeared before the planning commission denial to the city commission. If the planning commission denial to the city commission. If the planning commission denial to the city commission. If the planning commission votes to approve the application, that decision is forwarded as a recommendation to the city commission for final consideration. In either case, any review by the city commission is on the record and only issues raised before the planning commission may be raised before the city commission. The city commission decision is the city's final decision and is appealable to subject to review by the land use board of appeals (LUBA) within twenty-one days of when it becomes final.

- The expedited land division (ELD) process is set forth in ORS 197.360 to 197.380. To qualify for this Ε. type of process, the development must meet the basic criteria in ORS 197.360(1)(a) or (b). While the decision-making process is controlled by state law, the approval criteria are found in this code. The community development director has twenty-one days within which to determine whether an application is complete. Once deemed complete, the community development director has sixtythree days within which to issue a decision. Notice of application and opportunity to comment is mailed to the applicant, recognized neighborhood association and property owners within one hundred feet of the subject site. The community development director will accept written comments on the application for fourteen days and then issues a decision. State law prohibits a hearing. Any party who submitted comments may call for an appeal of the community development director's decision before a hearings referee. The referee need not hold a hearing; the only requirement is that the determination be based on the evidentiary record established by the community development director and that the process be "fair." The referee applies the city's approval standards, and has forty-two days within which to issue a decision on the appeal. The referee is charged with the general objective to identify means by which the application can satisfy the applicable requirements without reducing density. The referee's decision is appealable only to the court of appeals pursuant to ORS 197.375(8) and 36.355(1).
- <u>F. Decisions, completeness reviews, appeals, and notices in this Chapter shall be calculated according to</u> OCMC Chapter 1.04.070 and shall be based on calendar days, not business days.

### 17.50.120 - Quasi-judicial hearing process.

All public hearings pertaining to quasi-judicial permits, whether before the planning commission, historic review board, or city commission, shall comply with the procedures of this section. In addition, all public hearings held pursuant to this chapter shall comply with the Oregon Public Meetings Law, the applicable provisions of ORS 197.763 and any other applicable law.

- A. Once the community development director determines that an application for a Type III or IV decision is complete, the planning division shall schedule a hearing before the planning commission or historic review board, as applicable. Once the community development director determines that an appeal of a Type II, Type III or Type IV decision has been properly filed under Section 17.50.190, the planning division shall schedule a hearing pursuant to Section 17.50.190.
- B. Notice of the Type III or IV hearing shall be issued at least twenty days prior to the hearing in accordance with Section 17.50.090B.

- C. Written notice of an appeal hearing shall be sent by regular mail no later than fourteen days prior to the date of the hearing to the appellant, the applicant if different from the appellant, the property owner(s) of the subject site, all persons who testified either orally or in writing before the hearing body and all persons that requested in writing to be notified.
- D. The community development director shall prepare a staff report on the application which lists the applicable approval criteria, describes the application and the applicant's development proposal, summarizes all relevant city department, agency and public comments, describes all other pertinent facts as they relate to the application and the approval criteria and makes a recommendation as to whether each of the approval criteria are met. E. At the beginning of the initial public hearing at which any quasi-judicial application or appeal is reviewed, a statement describing the following shall be announced to those in attendance:
  - 1. That the hearing will proceed in the following general order: staff report, applicant's presentation, testimony in favor of the application, testimony in opposition to the application, rebuttal, record closes, commission deliberation and decision;
  - 2. That all testimony and evidence submitted, orally or in writing, must be directed toward the applicable approval criteria. If any person believes that other criteria apply in addition to those addressed in the staff report, those criteria must be listed and discussed on the record. The meeting chairperson may reasonably limit oral presentations in length or content depending upon time constraints. Any party may submit written materials of any length while the public record is open;
  - 3. Failure to raise an issue on the record with sufficient specificity and accompanied by statements or evidence sufficient to afford the city and all parties to respond to the issue, will preclude appeal on that issue to the state land use board of appeals;
  - 4. Any party wishing a continuance or to keep open the record must make that request while the record is still open; and
  - 5. That the commission chair shall call for any ex-parte contacts, conflicts of interest or bias before the beginning of each hearing item.
  - 6. For appeal hearings, only those persons who participated either orally or in writing in the decision or review or who have standing pursuant to ORS 197.175(10)(a)(C) will be allowed to participate either orally or in writing in the appeal.

F. Requests for continuance and to keep open the record: The hearing may be continued to allow the submission of additional information or for deliberation without additional information. New notice of a continued hearing need not be given so long as a time-certain and location is established for the continued hearing. Similarly, hearing may be closed but the record kept open for the submission of additional written material or other documents and exhibits. The chairperson may limit the factual and legal issues that may be addressed in any continued hearing or open record period.

## 17.50.190 - Appeals.

Appeals of any non-final decisions by the city must comply with the requirements of this section.

- A. Type I decisions by the planning manager are not appealable to any other decision-maker within the city.
- B. A notice of appeal of any Type II, III or IV decision must be received in writing by the planning division within fourteen calendar days from the date notice of the challenged decision is provided to those entitled to notice. Late filing of any appeal shall be deemed a jurisdictional defect and will result in the automatic rejection of any appeal so filed.
- C. The following must be included as part of the notice of appeal:
  - 1. The city planning file number and date the decision to be appealed was rendered;

- 2. The name, mailing address and daytime telephone number for each appellant;
- 3. A statement of how each appellant has an interest in the matter and standing to appeal;
- 4. A statement of the specific grounds for the appeal;
- 5. The appropriate appeal fee. Failure to include the appeal fee within appeal period is deemed to be a jurisdictional defect and will result in the automatic rejection of any appeal so filed. If a city-recognized neighborhood association with standing to appeal has voted to request a fee waiver pursuant to Section 17.50.290C., no appeal fee shall be required for an appeal filed by that association. In lieu of the appeal fee, the neighborhood association shall provide a duly adopted resolution of the general membership or board approving the request for fee waiver.
- D. Standing to Appeal. The following rules prescribe who has standing to appeal:
  - 1. For Type II decisions, only those persons or recognized neighborhood associations who submitted comments in writing before the expiration of the comment period have standing to appeal a planning manager decision. Review by the city commission shall be on the record, limited to the issues raised in the comments and no new evidence shall be considered. -who <u>submitted comments</u> have standing pursuant to ORS 197.175(10)(a)(C) may appeal a planning manager decision. The city commission shall hold a de novo hearing on the appeal. New evidence and new issues be raised at the hearing before the city commission.
  - 2. For Type III and IV decisions, only those persons or recognized neighborhood associations who have participated either orally or in writing have standing to appeal the decision of the planning commission or historic review board, as applicable. Grounds for appeal are limited to those issues raised either orally or in writing before the close of the public record. No new evidence shall be allowed.
- E. Notice of the Appeal Hearing. The planning division shall issue notice of the appeal hearing to all parties who participated either orally or in writing before the close of the public record in accordance with Section 17.50.090B. Notice of the appeal hearing shall contain the following information:
  - 1. The file number and date of the decision being appealed;
  - 2. The time, date and location of the public hearing;
  - 3. The name of the applicant, owner and appellant (if different);
  - 4. The street address or other easily understood location of the subject property;
  - 5. A description of the permit requested and the applicant's development proposal;
  - 6. A brief summary of the decision being appealed and the grounds for appeal listed in the notice of appeal;
  - 7. A statement that the appeal hearing is confined to the issues raised in the notice of appeal;
  - 8. A general explanation of the requirements for participation and the city's hearing procedures.
- F. Appeal Hearing—Scope of Review. Appeal hearings shall comply with the procedural requirements of Section 17.50.120. Appeal hearings shall be conducted by the city commission, planning commission or historic review board, as applicable. The decision shall be on the record and the issues under consideration shall be limited to those listed in the notice of appeal.

### 17.50.260 - Reconsideration of a final decision.

Under this section, parties with standing may seek reconsideration of a final decision rendered pursuant to a Type II, Type III, or Type IV process. Reconsideration is warranted where the city's decision indicates the decision-maker failed to understand or consider certain relevant facts in the record or misinterpreted the

application in some material way. Any request for reconsideration must be received by the planning division within ten days of when the decision in question was rendered and must specifically describe the alleged misunderstanding or misinterpretation. A request for reconsideration shall not stay the effectiveness of the city's final decision, nor shall it affect any applicable appeal deadlines to the land use board of appeals. If the request is granted, the community development director shall notify all affected parties that the decision will be reconsidered. Any request for reconsideration by the applicant shall be deemed a waiver of the one hundred-twenty-day deadline under Section 17.50.070.

### 17.52.020 - Number of automobile spaces required.

A. The number of parking spaces shall comply with the minimum and maximum standards listed in Table 17.52.020. The parking requirements are based on spaces per one thousand square feet net leasable area unless otherwise stated.

Table 17.52.020						
	PARKING REQUIREMENTS					
LAND USE	MINIMUM	MAXIMUM				
Multi-Family: Studio	1.00 per unit	1.5 per unit				
Multi-Family: 1 bedroom	1.25 per unit	2.00 per unit				
Multi-Family: 2 bedroom	1.5 per unit	2.00 per unit				
Multi-Family: 3 bedroom	1.75 per unit	2.50 per unit				
Hotel, Motel	1.0 per guest room	1.25 per guest room				
Correctional Institution	1 per 7 beds	1 per 5 beds				
Senior housing, including congregate care, residential care and assisted living facilities; nursing homes and other types of group homes	1 per 7 beds	1 per 5 beds				
Hospital	2.00	4.00				
Preschool Nursery/Kindergarten	2.00	3.00				
Elementary/Middle School	1 per classroom	1 per classroom + 1 per administrative employee + 0.25 per seat in auditorium/assembly room/stadium				
High School, College, Commercial School for Adults	0.20 per # staff and students	0.30 per # staff and students				
Auditorium, Meeting Room, Stadium, Religious Assembly Building, movie theater,	.25 per seat	0.5 per seat				
Retail Store, Shopping Center, Restaurants	4.10	5.00				
Office	2.70	3.33				
Medical or Dental Clinic	2.70	3.33				
Sports Club, Recreation Facilities	Case Specific	5.40				
Storage Warehouse, Freight Terminal	0.30	0.40				

Manufacturing, Wholesale Establishment	1.60	1.67
Light Industrial, Industrial Park	1.3	1.60

1. Multiple Uses. In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

- 2. Requirements for types of buildings and uses not specifically listed herein shall be determined by the community development director, based upon the requirements of comparable uses listed.
- 3. Where calculation in accordance with the above list results in a fractional space, any fraction less than one-half shall be disregarded and any fraction of one-half or more shall require one space.
- 4. The minimum required parking spaces shall be available for the parking of operable passenger automobiles of residents, customers, patrons and employees only, and shall not be used for storage of vehicles or materials or for the parking of vehicles used in conducting the business or use.
- 5. A change in use within an existing habitable building located in the MUD Design District or the Willamette Falls Downtown District is exempt from additional parking requirements. Additions to an existing building and new construction are required to meet the minimum parking requirements for the areas as specified in Table 17.52.020 for the increased square footage.
- B. Parking requirements can be met either onsite, or offsite by meeting the following conditions:
  - 1. Mixed Uses. If more than one type of land use occupies a single structure or parcel of land, the total requirements for off-street automobile parking shall be the sum of the requirements for all uses, unless it can be shown that the peak parking demands are actually less (e.g. the uses operate on different days or at different times of the day). In that case, the total requirements shall be reduced accordingly, up to a maximum reduction of fifty percent, as determined by the community development director.
  - 2. Shared Parking. Required parking facilities for two or more uses, structures, or parcels of land may be satisfied by the same parking facilities used jointly, to the extent that the owners or operators show that the need for parking facilities does not materially overlay (e.g., uses primarily of a daytime versus nighttime nature), that the shared parking facility is within one thousand feet of the potential uses, and provided that the right of joint use is evidenced by a recorded deed, lease, contract, or similar written instrument authorizing the joint use.
  - 3. On-Street Parking. On-street parking may be counted toward the minimum standards when it is on the street face abutting the subject land use. An on-street parking space must not obstruct a required clear vision area and it shall not violate any law or street standard. On-street parking for commercial uses shall conform to the following standards:
    - a. Dimensions. The following constitutes one on-street parking space:
  - 1. Parallel parking, each [twenty-two] feet of uninterrupted and available curb;
  - 2. [Forty-five/sixty] degree diagonal, each with [fifteen] feet of curb;
  - 3. Ninety degree (perpendicular) parking, each with [twelve] feet of curb.
  - 4. Public Use Required for Credit. On-street parking spaces counted toward meeting the parking requirements of a specific use may not be used exclusively by that use, but shall be available for general public use at all times. Signs or other actions that limit general public use of on-street spaces are prohibited.
- C. Reduction of the Number of Automobile Spaces Required. The required number of parking stalls may be reduced in the Downtown Parking Overlay District: Fifty percent reduction in the minimum number of spaces required is allowed prior to seeking further reductions in [sub]sections 2. and 3. below:
  - 1. Transit Oriented Development. For projects not located within the Downtown Parking Overlay District, the community development director may reduce the required number of parking stalls up to twenty-five percent when it is determined that a project in a commercial center (sixty thousand square feet or greater of retail or office use measured cumulatively within a five hundred-foot radius) or multi-family development with over eighty units, is adjacent to or within one thousand three

hundred twenty feet of an existing or planned public transit street and is within one thousand three hundred twenty feet of the opposite use (commercial center or multi-family development with over eighty units).

- 2. Reduction in Parking for Tree Preservation. The community development director may grant an adjustment to any standard of this requirement provided that the adjustment preserves a regulated tree or grove so that the reduction in the amount of required pavement can help preserve existing healthy trees in an undisturbed, natural condition. The amount of reduction must take into consideration any unique site conditions and the impact of the reduction on parking needs for the use, and must be approved by the community development director. This reduction is discretionary.
- 3. Transportation Demand Management. The community development director may reduce the required number of parking stalls up to twenty-five percent when a parking-traffic study prepared by a traffic engineer demonstrates:
  - a. Alternative modes of transportation, including transit, bicycles, and walking, and/or special characteristics of the customer, client, employee or resident population will reduce expected vehicle use and parking space demand for this development, as compared to standard Institute of Transportation Engineers vehicle trip generation rates and further that the transportation demand management program promotes or achieves parking utilization lower than minimum city parking requirements.
  - b. Transportation demand management (TDM) program has been developed for approval by, and is approved by the city engineer. The plan will contain strategies for reducing vehicle use and parking demand generated by the development and will be measured annually. If, at the annual assessment, the city determines the plan is not successful, the plan may be revised. If the city determines that no good-faith effort has been made to implement the plan, the city may take enforcement actions.
- <u>4. The minimum required number of stalls may be reduced by up to 10% when the subject property is</u> <u>adjacent to an existing or planned fixed public transit route or within 1,000 feet of an existing or</u> <u>planned transit stop.</u>

## 17.58.040 - Lawful nonconforming structure or site.

A structure <u>or site</u> that was lawfully established but no longer conforms to all development standards of this land use code (such as setbacks) shall be considered <del>a</del>-lawful<u>ly</u> nonconforming <u>structure</u>. Notwithstanding development standard requirements in this Code, minor repairs and routin<u>e</u> maintenance of a lawful nonconforming structure are permitted. The continuation of a lawful nonconforming structure <u>or site</u> is subject to the following:

- A. Accidental Destruction. When a nonconforming structure is damaged by fire or other causes, the structure may be rebuilt using the same structure footprint.
- B. Intentional Destruction. When a nonconforming structure is removed or intentionally damaged by fire or other causes within the control of the owner, the replacement structure shall comply with the development standards of this title.
- C. Expansion. An expansion of a lawful nonconforming structure <u>or site may</u> be approved, conditionally approved or denied in accordance with the standards and procedures of this section.
  - In making a determination on such applications, the decision maker shall weigh the proposal's positive and negative features and the public convenience or necessity to be served against any adverse conditions that would result from authorizing the particular development at the location proposed, and, to approve such expansion, it must be found that the criteria identified in Section 17.58.060 have either been met, can be met by observance of conditions, or are not applicable.
  - An expansion of a nonconforming structure with alterations <u>Increases in the square footage of a</u> <u>building and/or site improvements which include installation of any additional off-street parking</u> <u>stalls</u> that exceed the threshold of subparagraph C.2.a. below shall comply with the development

standards listed in subparagraph C.2.b. The value of the alterations and improvements is based on the entire project and not individual building permits.

- a. Thresholds triggering compliance. The standards of subparagraph C.2.b. below shall be met when the value of <u>the increase in square footage of a building and/or increase in off-street</u> <u>parking stalls</u> the proposed exterior alterations or additions to the site, as determined by the community development director, is more th<u>a</u>en seventy-five thousand dollars. The following alterations and improvements shall not be included in the threshold calculation:
  - 1. Proposed alterations to meet approved fire and life safety agreements;
  - 2. Alterations related to the removal of existing architectural barriers, as required by the Americans with Disabilities Act, or as specified in Section 1113 of the Oregon Structural Specialty Code;
  - 3. Alterations required to meet Seismic Design Requirements; and
  - 4. Improvements to on-site stormwater management facilities in conformance with Oregon City Stormwater Design Standards.
- b. Standards that shall be met. Developments not complying with the development standards listed below shall be brought into conformance.
  - 1. Pedestrian circulation systems, as set out in the pedestrian standards that apply to the sites;
  - 2. Minimum perimeter parking lot landscaping;
  - 3. Minimum interior parking lot landscaping;
  - 4. Minimum site landscaping requirements;
  - 5. Bicycle parking by upgrading existing racks and providing additional spaces in order to comply with Chapter 17.52—Off-Street Parking and Loading;
  - 6. Screening; and
  - 7. Paving of surface parking and exterior storage and display areas.
- c. Area of required improvements.
  - 1. Generally. Except as provided in C.2.c.2. below, required improvements shall be made for the entire site.
  - Exception for sites with ground leases. Required improvements may be limited to a smaller area if there is a ground lease for the portion of the site where the alterations are proposed. If all of the following are met, the area of the ground lease will be considered as a separate site for purposes of required improvements. The applicant shall meet the following:
    - i. The signed ground lease or excerpts from the lease document satisfactory to the city attorney shall be submitted to the community development director. The portions of the lease shall include the following:
      - •The term of the lease. In all cases, there must be at least one year remaining on the ground lease; and
      - •A legal description of the boundaries of the lease.
    - ii. The boundaries of the ground lease shall be shown on the site plan submitted with the application. The area of the lease shall include all existing and any proposed development that is required for, or is used exclusively by, those uses within the area of the lease; and
    - iii. Screening shall not be required along the boundaries of ground leases that are interior to the site.
- d. Timing and cost of required improvements. The applicant may choose one of the two following options for making the required improvements:
  - 1. Option 1. Required improvements may be made as part of the alteration that triggers the required improvements. The cost of the standards that shall be met, identified in subparagraph C.2.b. above, is limited to ten percent of the value of the proposed alterations. It is the responsibility of the applicant to document to the community development director the value of the required improvements. Additional costs may be

required to comply with other applicable requirements associated with the proposal. When all required improvements are not being made, the priority for the improvements shall be as listed in subparagraph C.2.b. above.

- 2. Option 2. Required improvements may be made over several years, based on the compliance period identified in Table 17.58—1 below. However, by the end of the compliance period, the site shall be brought fully into compliance with the standards listed in subparagraph C.2.b. Where this option is chosen, the following must be met:
  - i. Before a building permit is issued, the applicant shall submit the following to the community development director:
    - •A Nonconforming Development Assessment, which identifies in writing and on a site plan, all development that does not meet the standards listed in Subparagraph C.2.b.
    - •A covenant, in a form approved by the city attorney, executed by the property owner that meets the requirements of 17.50.150. The covenant shall identify development on the site that does not meet the standards listed in Subparagraph C.2.b., and require the owner to bring that development fully into compliance with this title. The covenant shall also specify the date by which the owner will be in conformance. The date must be within the compliance periods set out in Table 17.58 1.
  - ii. The nonconforming development identified in the Nonconforming Development Assessment shall be brought into full compliance with the requirements of this Title within the following compliance periods. The compliance period begins when a building permit is issued for alterations to the site of more than seventy-five thousand dollars. The compliance periods are based on the size of the site (see Table 17.58—1 below).
  - iii. By the end of the compliance period, the applicant or owner shall request that the site by certified by the community development director as in compliance. If the request is not received within that time, or if the site is not fully in conformance, no additional building permits will be issued.
  - iv. If the regulations referred to by subparagraph C.2.b. are amended after the Nonconforming Development Assessment is received by the community development director, and those amendments result in development on the site that was not addressed by the Assessment becoming nonconforming, the applicant shall address the new nonconforming development using Option 1 or 2. If the applicant chooses Option 2, a separate Nonconforming Development Assessment, covenant and compliance period will be required for the new nonconforming development.

#### Table 17.58—1 Compliance Periods for Option 2

Square footage of site	Compliance Period
Less than 150,000 sq. ft.	2 years
150,000 sq. ft. or more, up to 300,000 sq. ft.	3 years
300,000 sq. ft. or more, up to 500,000 sq. ft.	4 years
More than 500,000 sq. ft.	5 years

17.62.035 - Minor site plan and design review.

This section provides for a minor site plan and design review process. Minor Site Plan Review is a Type I or Type II decision, as described in OCMC Section 17.62.035(A), subject to administrative proceedings described in OCMC Section 17.50 and may be utilized as the appropriate review process only when authorized by the community development director. The purpose of this type of review is to expedite design review standards for uses and activities that require only a minimal amount of review, typical of minor modifications and/or changes to existing uses or buildings.

- A. Type I Minor Site Plan and Design Review.
  - 1. Applicability. Type I applications involve no discretion. The Type I process is not applicable for:
    - a. Any activity which is included with or initiates actions that require Type II-IV review.
    - b. Any use which is not permitted outright, unless otherwise noted.
    - c. Any proposal in which nonconforming upgrades are required under Chapter 17.58.
    - d. Any proposal in which modifications are proposed under Section 17.62.015.
  - 2. The following projects may be processed as a Type I application.
    - a. Addition or removal of up to two hundred square feet to a commercial, institutional, or multifamily structure in which no increases are required to off-street parking. This includes a new ancillary structure, addition to an existing structure, or new interior space (excluding new drive thru). Increases of more than two hundred square feet in a twelve-month period shall be processed as Type II.
    - b. Addition or removal of up to one thousand square feet to an industrial use in which no increases are required to off-street parking. This includes a new ancillary structure, addition to an existing structure, or new interior space (excluding ancillary retail and office). Increases of more than one thousand square feet in a twelve-month period shall be processed as Type II.
    - c. Replacement of exterior building materials.
    - d. Addition of windows and doors, relocation of windows and doors in which transparency levels remain unchanged, or removal of windows and doors provided minimum transparency requirements are still met.
    - e. Addition or alteration of parapets or rooflines.
    - f. Removal, replacement or addition of awnings, or architectural projections to existing structures.
    - g. Modification of building entrances.
    - h. Addition to or alteration of a legal nonconforming single or two-family dwelling.
    - i. Repaving of previously approved parking lots with no change to striping.
    - j. Change to parking lot circulation or layout, excluding driveway modifications.
    - k. Removal or relocation of vehicle parking stalls provided total parking remains between approved minimum and maximum with no new reductions other than through the downtown parking district.
    - I. Adoption of shared parking agreements.
    - m. Changes to amount, location, or design of bicycle parking.
    - n. Changes to landscaping that do not require stormwater quality and quantity treatment under OCMC Chapter 13.12.
    - o. New or changes to existing pedestrian accessways, walkways or plazas.
    - p. Installation of mechanical equipment.
    - q. Installation of or alterations to ADA accessibility site elements.
    - r. Modification of a fence, hedge, or wall, or addition of a fence, hedge or wall at least twenty feet away from a public right-of-way.
    - s. Addition of or alterations to outdoor lighting.
    - t. Addition, modification, or relocation of refuse enclosure.

u. Demolition of any structure or portion of a structure

v. Tree removal

- 3. Submittal requirements. A Type I application shall include:
  - a. A narrative describing the project.
  - b. Site plan drawings showing existing conditions/uses and proposed conditions/uses.
  - c. Architectural drawings, including building elevations and envelopes, if architectural work is proposed.
  - d. A completed application form.
  - e. Any other information determined necessary by the Community Development Director.
- B. Type II Minor Site Plan and Design Review.
  - 1. Type II Minor site plan and design review applies to the following uses and activities unless those uses and activities qualify for Type I review per Section 17.62.035(A):
    - a. Modification of an office, commercial, industrial, institutional, public or multi-family structure for the purpose of enhancing the aesthetics of the building and not increasing the interior usable space (for example covered walkways or entryways, addition of unoccupied features such as clock tower, etc.).
    - b. Modification to parking lot layout and landscaping, or the addition of up to five parking spaces.
    - c. A maximum addition of up to one thousand square feet to a commercial, office, institutional, public, multi-family, or industrial building provided that the addition is not more than thirty-five percent of the original building square footage.
    - d. Other land uses and activities may be added if the community development director makes written findings that the activity/use will not increase off-site impacts and is consistent with the type and/or scale of activities/uses listed above.
  - 2. Application. The application for the Type II minor site plan and design review shall contain the following elements:
  - a. The submittal requirements of Chapter 17.50.
  - b. A narrative explaining all aspects of the proposal in detail and addressing each of the criteria listed in Section 17.62.035(C) below.
  - c. Site plan drawings showing existing conditions/uses and proposed conditions/uses.
  - d. Architectural drawings, including building elevations and envelopes, if architectural work is proposed.
  - e. Additional submittal material may be required by the community development director on a case-by-case basis.
- 3. Development Standards for Type II Minor Site Plan and Design Review.
  - a. All development shall comply with Section 17.62.050(1—7 and 8—15 and 20—22) when deemed applicable by the community development director. Other sections may apply, as directed by the community development director when applicable, in order to show compliance with this chapter, such as the commercial and institutional standards of Section 17.62.055.

## 17.62.050 - Standards.

- A. All development shall comply with the following standards:
  - 1. Landscaping, A minimum of fifteen percent of the lot shall be landscaped. Existing native vegetation shall be retained to the maximum extent practicable. All plants listed on the Oregon City Nuisance Plant List shall be removed from the site prior to issuance of a final occupancy permit for the building.
    - a. Except as allowed elsewhere in the zoning and land division chapters of this Code, all areas to be credited towards landscaping must be installed with growing plant materials. A reduction of up to twenty-five percent of the overall required landscaping may be approved by the community development director if the same or greater amount of pervious material is incorporated in the non-parking lot portion of the site plan (pervious material within parking lots are regulated in OCMC 17.52.070).

- b. Pursuant to Chapter 17.49, landscaping requirements within the Natural Resource Overlay District, other than landscaping required for parking lots, may be met by preserving, restoring and permanently protecting native vegetation and habitat on development sites.
- c. The <u>A</u> landscaping plan shall be prepared by a registered landscape architect <u>for new or revised</u> landscaped areas. Landscape architect approval is not required for tree removal and/or installation if the species are chosen from an approved street tree list. A certified landscape designer, arborist, or nurseryman shall be acceptable in lieu of a landscape architect for projects with less than 500 square feet of landscaping. All landscape plans shall and include a mix of vertical (trees and shrubs) and horizontal elements (grass, groundcover, etc.) that within three years will cover one hundred percent of the Landscape area. No mulch, bark chips, or similar materials shall be allowed at the time of landscape installation except under the canopy of shrubs and within two feet of the base of trees. The community development department shall maintain a list of trees, shrubs and vegetation acceptable for landscaping.
- d. For properties within the Downtown Design District<del>, or for major remodeling in all zones subject to this chapter,</del> landscaping shall be required to the extent practicable up to the ten percent requirement.
- e. Landscaping shall be visible from public thoroughfares to the extent practicable.
- f. Interior parking lot landscaping shall not be counted toward the fifteen percent minimum, unless otherwise permitted by the dimensional standards of the underlying zone district.
- 2. Vehicular Access and Connectivity.
  - a. Parking areas shall be located behind buildings, below buildings, or on one or both sides of buildings.
  - b. Ingress and egress locations on thoroughfares shall be located in the interest of public safety. Access for emergency services (fire and police) shall be provided.
  - c. Alleys or vehicular access easements shall be provided in the following Districts: R-2, MUC-1, MUC-2, MUD and NC zones unless other permanent provisions for access to off-street parking and loading facilities are approved by the decision-maker. The corners of alley intersections shall have a radius of not less than ten feet.
  - d. Sites abutting an alley shall be required to gain vehicular access from the alley unless deemed impracticable by the community development director.
  - e. Where no alley access is available, the development shall be configured to allow only one driveway per frontage. On corner lots, the driveway(s) shall be located off of the side street (unless the side street is an arterial) and away from the street intersection. Shared driveways shall be required as needed to accomplish the requirements of this section. The location and design of pedestrian access from the sidewalk shall be emphasized so as to be clearly visible and distinguishable from the vehicular access to the site. Special landscaping, paving, lighting, and architectural treatments may be required to accomplish this requirement.
  - f. Driveways that are at least twenty-four feet wide shall align with existing or planned streets on adjacent sites.
  - g. Development shall be required to provide existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements where applicable. Such easements shall be required in addition to applicable street dedications as required in Chapter 12.04.
  - h. Vehicle and pedestrian access easements may serve in lieu of streets when approved by the decision maker only where dedication of a street is deemed impracticable by the city.
  - i. Vehicular and pedestrian easements shall allow for public access and shall comply with all applicable pedestrian access requirements.
  - j. In the case of dead-end stub streets that will connect to streets on adjacent sites in the future, notification that the street is planned for future extension shall be posted on the stub street

until the street is extended and shall inform the public that the dead-end street may be extended in the future.

- k. Parcels larger than three acres shall provide streets as required in Chapter 12.04. The streets shall connect with existing or planned streets adjacent to the site.
- I. Parking garage entries shall not dominate the streetscape. They shall be designed and situated to be ancillary to the use and architecture of the ground floor. This standard applies to both public garages and any individual private garages, whether they front on a street or private interior access road.
- m. Buildings containing above-grade structured parking shall screen such parking areas with landscaping or landscaped berms, or incorporate contextual architectural elements that complement adjacent buildings or buildings in the area. Upper level parking garages shall use articulation or fenestration treatments that break up the massing of the garage and/or add visual interest.
- 3. Building structures shall be complimentary to the surrounding area. All exterior surfaces shall present a finished appearance. All sides of the building shall include materials and design characteristics consistent with those on the front. Use of inferior or lesser quality materials for side or rear facades or decking shall be prohibited.
  - a. Alterations, additions and new construction located within the McLoughlin Conservation District, Canemah National Register District, and the Downtown Design District and when abutting a designated Historic Landmark shall utilize materials and a design that incorporates the architecture of the subject building as well as the surrounding district or abutting Historic Landmark. Historic materials such as doors, windows and siding shall be retained or replaced with in kind materials unless the community development director determines that the materials cannot be retained and the new design and materials are compatible with the subject building, and District or Landmark. The community development director may utilize the Historic Review Board's Guidelines for New Constriction (2006) to develop findings to show compliance with this section.
  - b. In historic areas and where development could have a significant visual impact, the review authority may request the advisory opinions of appropriate experts designated by the community development director from the design fields of architecture, landscaping and urban planning. The applicant shall pay the costs associated with obtaining such independent professional advice; provided, however, that the review authority shall seek to minimize those costs to the extent practicable.
- 4. Grading shall be in accordance with the requirements of Chapter 15.48 and the public works stormwater and grading design standards.
- 5. Development subject to the requirements of the Geologic Hazard overlay district shall comply with the requirements of that district.
- 6. Drainage shall be provided in accordance with city's drainage master plan, Chapter 13.12, and the public works stormwater and grading design standards.
- 7. Parking, including carpool, vanpool and bicycle parking, shall comply with city off-street parking standards, Chapter 17.52.
- 8. Sidewalks and curbs shall be provided in accordance with the city's transportation master plan and street design standards. Upon application, the community development director may waive this requirement in whole or in part in those locations where there is no probable need, or comparable alternative location provisions for pedestrians are made.
- 9. A well-marked, continuous and protected on-site pedestrian circulation system meeting the following standards shall be provided:
  - a. Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct. Exceptions may be allowed by the

director where steep slopes or protected natural resources prevent a direct connection or where an indirect route would enhance the design and/or use of a common open space.

- b. The pedestrian circulation system shall connect all main entrances on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard. Pedestrian connections to other areas of the site, such as parking areas, recreational areas, common outdoor areas, and any pedestrian amenities shall be required.
- c. Elevated external stairways or walkways, that provide pedestrian access to multiple dwelling units located above the ground floor of any building are prohibited. The community development director may allow exceptions for external stairways or walkways located in, or facing interior courtyard areas provided they do not compromise visual access from dwelling units into the courtyard.
- d. The pedestrian circulation system shall connect the main entrances of adjacent buildings on the same site.
- e. The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent commercial and residential sites where practicable. Walkway linkages to adjacent developments shall not be required within industrial developments or to industrial developments or to vacant industrially-zoned land.
- f. On-site pedestrian walkways shall be hard surfaced, well drained and at least five feet wide. Surface material shall contrast visually to adjoining surfaces. When bordering parking spaces other than spaces for parallel parking, pedestrian walkways shall be a minimum of seven feet in width unless curb stops are provided. When the pedestrian circulation system is parallel and adjacent to an auto travel lane, the walkway shall be raised or separated from the auto travel lane by a raised curb, bollards, landscaping or other physical barrier. If a raised walkway is used, the ends of the raised portions shall be equipped with curb ramps for each direction of travel. Pedestrian walkways that cross drive isles or other vehicular circulation areas shall utilize a change in textual material or height to alert the driver of the pedestrian crossing area.
- 10. There shall be provided adequate means to ensure continued maintenance and necessary normal replacement of private common facilities and areas, drainage ditches, streets and other ways, structures, recreational facilities, landscaping, fill and excavation areas, screening and fencing, groundcover, garbage storage areas and other facilities not subject to periodic maintenance by the city or other public agency.
- 11. Site planning shall conform to the requirements of OCMC Chapter 17.41 Tree Protection.
- 12. Development shall be planned, designed, constructed and maintained to protect water resources and habitat conservation areas in accordance with the requirements of the city's Natural Resources Overlay District, Chapter 17.49, as applicable.
- 13. All development shall maintain continuous compliance with applicable federal, state, and city standards pertaining to air and water quality, odor, heat, glare, noise and vibrations, outdoor storage, radioactive materials, toxic or noxious matter, and electromagnetic interference. Prior to issuance of a building permit, the community development director or building official may require submission of evidence demonstrating compliance with such standards and receipt of necessary permits. The review authority may regulate the hours of construction or operation to minimize adverse impacts on adjoining residences, businesses or neighborhoods. The emission of odorous gases or other matter in such quantity as to be readily detectable at any point beyond the property line of the use creating the odors or matter is prohibited.
- 14. Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided. The applicant shall demonstrate that adequate facilities and services are presently available or can be made available concurrent with development. Service providers shall be presumed correct in the evidence, which they submit. All facilities shall be designated to city standards as set out in the city's facility master plans and public works design standards. A development may be required to modify or replace existing offsite systems if necessary

to provide adequate public facilities. The city may require over sizing of facilities where necessary to meet standards in the city's facility master plan or to allow for the orderly and efficient provision of public facilities and services. Where over sizing is required, the developer may request reimbursement from the city for over sizing based on the city's reimbursement policy and fund availability, or provide for recovery of costs from intervening properties as they develop.

- 15. Adequate right-of-way and improvements to streets, pedestrian ways, bike routes and bikeways, and transit facilities shall be provided and be consistent with the city's transportation master plan and design standards and this title. Consideration shall be given to the need for street widening and other improvements in the area of the proposed development impacted by traffic generated by the proposed development. This shall include, but not be limited to, improvements to the right-of-way, such as installation of lighting, signalization, turn lanes, median and parking strips, traffic islands, paving, curbs and gutters, sidewalks, bikeways, street drainage facilities and other facilities needed because of anticipated vehicular and pedestrian traffic generation. Compliance with [Chapter] 12.04, Streets, Sidewalks and Public Places shall be sufficient to achieve right-of-way and improvement adequacy.
- 16. If a transit agency, upon review of an application for an industrial, institutional, retail or office development, recommends that a bus stop, bus turnout lane, bus shelter, accessible bus landing pad, lighting, or transit stop connection be constructed, or that an easement or dedication be provided for one of these uses, consistent with an agency adopted or approved plan at the time of development, the review authority shall require such improvement, using designs supportive of transit use. Improvements at a major transit stop may include intersection or mid-block traffic management improvements to allow for crossings at major transit stops, as identified in the transportation system plan.
- 17. All utility lines shall be placed underground.
- 18. Access and facilities for physically handicapped people shall be incorporated into the site and building design consistent with applicable federal and state requirements, with particular attention to providing continuous, uninterrupted access routes.
- 19. For a residential development, site layout shall achieve at least eighty percent of the maximum density of the base zone for the net developable area. Net developable area excludes all areas for required right-of-way dedication, land protected from development through Natural Resource or Geologic Hazards protection, and required open space or park dedication.
- 20. Screening of Mechanical Equipment:
  - a. Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened. Screening shall be accomplished through the use of parapet walls or a sight-obscuring enclosure around the equipment constructed of one of the primary materials used on the primary facades of the structure, and that is an integral part of the building's architectural design. The parapet or screen shall completely surround the rooftop mechanical equipment to an elevation equal to or greater than the highest portion of the rooftop mechanical equipment being screened. In the event such parapet wall does not fully screen all rooftop equipment, then the rooftop equipment shall be enclosed by a screen constructed of one of the primary materials used on the primary facade of the building so as to achieve complete screening.
  - b. Wall-mounted mechanical equipment shall not be placed on the front facade of a building or on a facade that faces a right-of-way. Wall-mounted mechanical equipment, including air conditioning or HVAC equipment and groups of multiple utility meters, that extends six inches or more from the outer building wall shall be screened from view from streets; from residential, public, and institutional properties; and from public areas of the site or adjacent sites through the use of (a) sight-obscuring enclosures constructed of one of the primary materials used on the primary facade of the structure, (b) sight-obscuring fences, or (c) trees or shrubs that block at least eighty percent of the equipment from view or (d) painting the units to match the

building. Wall-mounted mechanical equipment that extends six inches or less from the outer building wall shall be designed to blend in with the color and architectural design of the subject building.

- c. Ground-mounted above-grade mechanical equipment shall be screened by ornamental fences, screening enclosures, trees, or shrubs that block at least eighty percent of the view. Placement and type of screening shall be determined by the community development director.
- d. All mechanical equipment shall comply with the standards in this section. If mechanical equipment is installed outside of the site plan and design review process, planning staff shall review the plans to determine if additional screening is required. If the proposed screening meets this section, no additional planning review is required.
- <u>de</u>. This section shall not apply to the installation of solar energy panels, photovoltaic equipment or wind power generating equipment.
- 21. Building Materials.
  - a. Preferred building materials. Building exteriors shall be constructed from high quality, durable materials. Preferred exterior building materials that reflect the city's desired traditional character are as follows:
    - i. Brick.
    - ii. Basalt stone or basalt veneer.
    - iii. Narrow horizontal wood or composite siding (generally five inches wide or less); wider siding will be considered where there is a historic precedent.
    - iv. Board and baton batten siding.
    - v. Other materials subject to approval by the community development director.
    - vi. Plywood with battens or fiber/composite panels with concealed fasteners and <del>contagious</del> <u>contiguous</u> aluminum sections at each joint that are either horizontally or vertically aligned.
    - vii. Stucco shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.
  - b. Prohibited materials. The following materials shall be prohibited in visible locations unless an exception is granted by the community development director based on the integration of the material into the overall design of the structure.
    - i. Vinyl or plywood siding (including T-111 or similar plywood).
    - ii. Glass block or highly tinted, reflected, translucent or mirrored glass (except stained glass) as more than ten percent of the building facade.
    - iii. Corrugated fiberglass.
    - iv. Chain link fencing (except for temporary purposes such as a construction site, or as a gates for a refuse enclosure, or associated with stormwater facilities).
    - [v.] Crushed colored rock/crushed tumbled glass.
    - [vi.] Non-corrugated and highly reflective sheet metal.
  - c. Special material standards: The following materials are allowed if they comply with the requirements found below:
    - Concrete block. When used for the front facade of any building, concrete blocks shall be split, rock- or ground-faced and shall not be the prominent material of the elevation. Plain concrete block or plain concrete may be used as foundation material if the foundation material is not revealed more than three feet above the finished grade level adjacent to the foundation wall.
    - 2. Metal siding. Metal siding shall have visible corner moldings and trim and incorporate masonry or other similar durable/permanent material near the ground level (first two feet above ground level).

- 3. Exterior Insulation and Finish System (EIFS) and similar toweled troweled finishes shall be trimmed in wood, masonry, or other approved materials and shall be sheltered from extreme weather by roof overhangs or other methods.
- 4. Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.
- 22. Conditions of Approval. The review authority may impose such conditions as it deems necessary to ensure compliance with these standards and other applicable review criteria, including standards set out in city overlay districts, the city's master plans, and city public works design standards. Such conditions shall apply as described in Sections 17.50.310, 17.50.320 and 17.50.330. The review authority may require a property owner to sign a waiver of remonstrance against the formation of and participation in a local improvement district where it deems such a waiver necessary to provide needed improvements reasonably related to the impacts created by the proposed development. To ensure compliance with this chapter, the review authority may require an applicant to sign or accept a legal and enforceable covenant, contract, dedication, easement, performance guarantee, or other document, which shall be approved in form by the city attorney.
- 23. Development shall conform to the requirements of OCMC Chapter 17.58 Nonconforming Uses, Structures, and Lots.

## 17.62.065 - Outdoor lighting.

- A. Purpose. The general purpose of this section is to require outdoor lighting that is adequate for safety and convenience; in scale with the activity to be illuminated and its surroundings; directed to the surface or activity to be illuminated; and designed to clearly render people and objects and contribute to a pleasant nighttime environment. Additional specific purposes are to:
  - 1. Provide safety and personal security as well as convenience and utility in areas of public use or traverse, for uses where there is outdoor public activity during hours of darkness;
  - 2. Control glare and excessive brightness to improve visual performance, allow better visibility with relatively less light, and protect residents from nuisance and discomfort;
  - 3. Control trespass light onto neighboring properties to protect inhabitants from the consequences of stray light shining in inhabitants' eyes or onto neighboring properties;
  - 4. Result in cost and energy savings to establishments by carefully directing light at the surface area or activity to be illuminated, using only the amount of light necessary; and
  - 5. Control light pollution to minimize the negative effects of misdirected light and recapture views to the night sky.
- B. Applicability.
  - 1. General.
    - a. All exterior lighting for any type of commercial, mixed-use, industrial or multi-family development shall comply with the standards of this section, unless excepted in subsection B.3.
    - b. The city engineer/public works director shall have the authority to enforce these regulations on private property if any outdoor illumination is determined to present an immediate threat to the public health, safety and welfare.
  - 2. Lighting Plan Requirement.
  - All commercial, industrial, mixed-use, cottage housing and multi-family developments shall submit a proposed exterior lighting plan. The plan must be submitted concurrently with the site plan. The exterior lighting plan shall include plans and specifications for streetlights, parking lot lights, and exterior building lights. The specifications shall include details of the pole, fixture height and design, lamp type, wattage, and spacing of lights.
  - 3. Excepted Lighting.

The following types of lighting are excepted from the requirements of this section.

- a. Residential lighting for single-family attached and detached homes, and duplexes.
- b. Public street and right-of-way lighting.

- c. Temporary decorative seasonal lighting provided that individual lamps have a light output of sixty watts or less.
- d. Temporary lighting for emergency or nighttime work and construction.
- e. Temporary lighting for theatrical, television, and performance areas, or for special public events.
- f. Lighting for a special district, street, or building that, according to an adopted municipal plan or ordinance, is determined to require special lighting aesthetics as part of its physical character.
- g. Lighting required and regulated by the Federal Aviation Administration.
- C. General Review Standard. If installed, all exterior lighting shall meet the functional security needs of the proposed land use without adversely affecting adjacent properties or the community. For purposes of this section, properties that comply with the design standards of subsection D. below shall be deemed to not adversely affect adjacent properties or the community.
- D. Design and Illumination Standards.

General Outdoor Lighting Standard and Glare Prohibition.

- 1. Outdoor lighting, if provided, shall be provided in a manner that enhances security, is appropriate for the use, avoids adverse impacts on surrounding properties, and the night sky through appropriate shielding as defined in this section. Glare shall not cause illumination on other properties in excess of a measurement of 0.5 footcandles of light as measured at the property line. In no case shall exterior lighting add more than 0.5 footcandle to illumination levels at any point off-site. Exterior lighting is not required except for purposes of public safety. However, if installed, all exterior lighting shall meet the following design standards:
- <u>1</u>2. Any light source or lamp that emits more than nine hundred lumens (thirteen watt compact fluorescent or sixty watt incandescent) shall be concealed or shielded with a full cut-off style fixture in order to minimize the potential for glare and unnecessary diffusion on adjacent property. All fixtures shall utilize one of the following bulb types: metal halide, induction lamp, compact fluorescent, incandescent (including tungsten halogen), or high pressure sodium with a color rendering index above seventy.
- <u>2</u>3. The maximum height of any lighting pole serving a multi-family residential use shall be twenty feet. The maximum height serving any other type of use shall be twenty-five feet, except in parking lots larger than five acres, the maximum height shall be thirty-five feet if the pole is located at least one hundred feet from any residential use.

34. Lighting levels:

Table 1-17.62.065. Foot-candle Levels

	1	1	1
Location	Min	Max	Avg
Pedestrian Walkways	<del>0.5</del>	<del>7:1 max/min ratio</del>	<del>1.5</del>
Pedestrian Walkways in Parking Lots		10:1 max/min ratio	0.5
Pedestrian Accessways/Walkways	0.5	7:1 max/min ratio	1.5
Building Entrances	3		
Bicycle Parking Areas	3		
Abutting property	N/A	<del>.05</del> _ <u>0.5</u>	

-5. Parking lots and other background spaces shall be illuminated as unobtrusively as possible while meeting the functional needs of safe circulation and protection of people and property. Foreground

spaces, such as building entrances and outside seating areas, shall utilize pedestrian scale lighting that defines the space without glare.

- 6. Any on-site pedestrian circulation system shall be lighted to enhance pedestrian safety and allow employees, residents, customers or the public to use the walkways at night. Pedestrian walkway lighting through parking lots shall be lighted to light the walkway and enhance pedestrian safety pursuant to Table 1.
- <u>47</u>. Pedestrian Accessways. To enhance pedestrian and bicycle safety, pedestrian accessways required pursuant to OCMC 12.28 shall be lighted with pedestrian-scale lighting. Accessway lighting shall be to a minimum level of one-half foot-candles, a one and one-half foot-candle average, and a maximum to minimum ratio of seven-to-one and shall be oriented not to shine upon adjacent properties. Street lighting shall be provided at both entrances. Lamps shall include a high-pressure sodium bulb with an unbreakable lens.
- 58. Floodlights shall not be utilized to light all or any portion of a building facade between ten p.m. and six a.m.
- <u>69</u>. Lighting on <del>automobile service station, convenience store, and other</del> outdoor canopies shall be fully recessed into the canopy and shall not protrude downward beyond the ceiling of the canopy.
- 10. The style of light standards and fixtures shall be consistent with the style and character of architecture proposed on the site.
- 11. In no case shall exterior lighting add more than one foot-candle to illumination levels at any point offsite.
- <u>712</u>. All outdoor light not necessary for security purposes shall be reduced, activated by motion sensor detectors, or turned off during non-operating hours.
- <u>813</u>. Light fixtures used to illuminate flags, statues, or any other objects mounted on a pole, pedestal, or platform shall use a narrow cone beam of light that will not extend beyond the illuminated object.
- <u>9</u>14. For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the building roofline.
- <u>10</u><del>15</del>. No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.
- <u>11</u><del>16</del>. Wireless Sites. Unless required by the Federal Aviation Administration or the Oregon Aeronautics Division, artificial lighting of wireless communication towers and antennas shall be prohibited. Strobe lighting of wireless communication facilities is prohibited unless required by the Federal Aviation Administration. Security lighting for equipment shelters or cabinets and other on-the-ground auxiliary equipment on wireless communication facilities shall be initiated by motion detecting lighting.
- <u>12</u>17. Lighting for outdoor recreational uses such as ball fields, playing fields, tennis courts, and similar uses, provided that such uses comply with the following standards:
  - i. Maximum permitted light post height: eighty feet.
  - ii. Maximum permitted illumination at the property line: 0.5 foot-candles.

## 17.80.035 Modifications to Existing Facilities.

All modifications and expansions to existing wireless communication facilities are permitted in every zone, subject to the requirements of this Section. Certain modifications are deemed minor in nature and are deemed "eligible modifications" These modifications include the addition, removal, and/or replacement of transmission equipment that do not make a substantial change to the physical dimensions (height, mass, width) of the existing tower, support structure, or base station. Replacement of an existing tower may also be considered an eligible modification if such replacement meets the standards in paragraph 4 below.

1. For the purpose of this Section, "substantial change" means the following:

a. The mounting of the proposed antenna on the tower would increase the existing height of the tower by more than 10%, or by the height of 1 additional antenna array with separation from

the nearest existing antenna not to exceed 20 feet, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection by up to an additional 5% if necessary to avoid interference with existing antennas; or

- b. The mounting of the proposed antenna would involve the installation of more than the standard number of new equipment cabinets for the technology involved (not to exceed 4) or more than 1 new equipment shelter; or
- c. The mounting of the proposed antenna would involve adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater, except that the mounting of the proposed antenna may exceed the size limits set forth in this subsection to the extent necessary to shelter the antenna from inclement weather or to connect the antenna to the tower via cable; or
- d. The mounting of the proposed antenna would involve excavation outside the current tower site, defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site.
- 2. Increases to height allowed by this subsection above the existing tower shall be based on the existing height of the tower, excluding any tower lighting required in the original land use approval or in the proposed modification request.
- 3. To the extent feasible, additional equipment shall maintain the appearance intended by the original facility, including, but not limited to, color, screening, landscaping, mounting configuration, or architectural treatment.
- 4. To be considered an eligible modification, a replacement tower shall not exceed the height of the original tower by more than 10%, or the diameter of the original tower by more than 25% at any given point.

# 17.80.040 - Collocation of additional antenna(s) on existing support towers.

<u>Except for "eligible modifications" authorized in Section 17.80.035</u>, the following standards shall apply for the placement of antenna(s) and auxiliary support equipment on an existing wireless communication facility support tower.

A. Compatibility Review. Required for property zoned GI, CI, I, C, HC, MUC-1, MUC-2, MUE, MUD or NC.B. Site Plan and Design Review. Required for all cases other than those identified in Section 17.80.040.A.

# 17.80.050 - Collocation of additional antenna(s) on support structures.

Except for "eligible modifications" authorized in Section 17.80.035, the following standards shall apply for the placement of antenna(s) and auxiliary support equipment on a support structure.

- A. Compatibility Review. Required if the following exist:
  - 1. Property is zoned GI, CI, I, C, HC, MUC-1, MUC-2, MUE, MUD or NC; and
  - 2. Property is not located in the McLoughlin or Canemah Historical Conservation Districts; and
  - 3. Antenna(s) and auxiliary support equipment are setback a minimum of ten feet from each edge of the support structure and do not exceed a total height of twelve feet or a total width of eight feet, unless the antenna(s) is less than four inches in diameter and does not exceed a total height of twenty feet.
- B. Site Plan and Design Review. Required if the property is zoned GI, CI, I, C, MUC-1, MUC-2, MUE, MUD or NC and does not meet all the criteria of Section 17.80.050.A.
- C. Conditional Use Review. Required for all cases other than those identified in Sections 17.08.050.A and 17.08.050.B.

# 17.80.070 - Construction or modification of a support tower.

#### Except for "eligible modifications" authorized in OCMC 17.80.035:

- A. Site Plan and Design Review. Required if the following exists:
  - 1. Property is zoned GI, CI, I, C, MUC-2 or MUE; and
  - 2. No adjacent parcel is zoned for residential use.
- B. Conditional Use Review. Required for all cases other than those identified in Section 17.80.070.A.
- C. Prohibited Zoning Districts and Locations. No new support towers shall be permitted within the Canemah Historic Neighborhood, McLoughlin Conservation District, The Oregon Trail-Barlow Road Historic Corridor, five hundred feet of the Willamette Greenway Corridor, or any new Historic Districts unless the applicant can demonstrate that failure to allow the support tower would effectively prevent the provision of communication services in that area. If the applicant makes such a demonstration, the minimum height required to allow that service shall be the maximum height allowed for the tower.

## 17.80.080 - Site review process.

No wireless communications facilities, as defined in Section 17.80.020, may be constructed, collocated, modified to increase height, installed, or otherwise located within the city except as provided in this section <u>or unless otherwise authorized by Section 17.80.035</u>. Depending on the type and location of the wireless communication facility, the facility shall be subject to the following review unless collocation or an increase in height was granted through a prior land use process. A Conditional Use Review shall require Site Plan and Design Review to occur concurrently with the Conditional Use Review process.

- A. Compatibility Review. A wireless communication facility that, pursuant to Sections 17.80.030— 17.80.050, is subject to a compatibility review shall be processed in accordance with Standards of Section 17.80.110. The criteria contained in Section 17.80.110 shall govern approval or denial of the compatibility review application. No building permit shall be issued prior to completion of the compatibility review process.
- B. Site Plan and Design Review. A wireless communication facility that, pursuant to Sections 17.80.040—17.80.070, is subject to site plan and design review shall be processed in accordance with the standards of Section 17.80.110 and Chapter 17.62, as applicable. The criteria contained in Section 17.80.110 and Chapter 17.62 shall govern approval or denial of the site plan and design review application. In the event of a conflict in criteria, the criteria contained in this chapter shall govern. No building permit shall be issued prior to completion of the site plan and design review process, including any local appeal.
- C. Conditional Use Review. A wireless communication facility that, pursuant to Sections 17.80.050— 17.80.070, is subject to conditional use review, shall be processed in accordance with the Standards of Section 17.80.110 and Chapter 17.56, as applicable. The criteria contained in Section 17.80.110 and Chapter 17.56 shall govern approval or denial of the conditional use review application. In the event of a conflict in criteria, the criteria contained in this chapter shall govern. No building permit shall be issued prior to completion of the Conditional Use Review process, including any local appeal.

## 17.80.090 - Permit application requirements.

A. <u>Eligible Modification Requirements – For an application under Section 17.80.035, the following</u> <u>information is required:</u>

1. Application fee;

- 2. Planning Division land use application form;
- 3. Description of the project design and dimensions;
- <u>4. A written response demonstrating compliance with each criterion listed in OCMC Chapter</u> <u>17.80.035;</u>

- 5. Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with building permit and land use process; and
- 6. Elevations showing all improvements and connections to utilities.
- <u>B.</u> Compatibility Review Requirements For an application under Sections 17.80.030.B.7, 17.80.040.A or 17.80.050.A, the following information is required:
  - 1. Application fee(s).
  - 2. Planning Division land use application form;
  - 3. A narrative of the proposed project that includes a description of the following:
    - i. Need for the project;
    - ii. Rationale and supporting evidence for the location; and
    - iii. Description of the project design and dimensions.
    - iv. A written response demonstrating compliance with each criterion listed in OCMC Chapter 17.80.110
  - 4. Documentation demonstrating compliance with non-ionizing electromagnetic radiation (NIER) emissions standards as set forth by the Federal Communications Commission (FCC) particularly with respect to any habitable areas within the structure on which the antenna(s) are collocated on or in structures directly across from or adjacent to the antenna(s);
  - Documentation that the auxiliary support equipment shall not produce sound levels in excess of standards contained in Section 17.80.110G., or designs showing how the sound is to be effectively muffled to meet those standards;
  - 6. Signature of the property owner(s) on the application form or a statement from the property owner(s) granting authorization to proceed with building permit and land use process;
  - 7. Documentation of the integrity of the support tower, support structure, utility pole, light standard, or light pole to safely handle the load created by the collocation;
  - 8. Elevations showing all improvements and connections to utilities; and
  - 9. Color simulations of the site after construction demonstrating compatibility.
- <u>C</u>B. Site Plan and Design Review. For an application under Sections 17.80.040.B, 17.80.050B.,
  - 17.80.060A., or 17.80.070A. the following information is required:
  - 1. The information required in OCMC Chapter 17.80.90.AB;
  - 2. Pre-application notes;
  - 3. A written response demonstrating compliance with each criterion listed in the Site Plan and Design Review Standards of Chapter 17.62.050 and all other applicable criterion as defined by the community development director; and
  - 4. Supplemental requirements listed in OCMC Chapter 17.80.90 DE. as needed.
- <u>D</u>C. Conditional Use Review. For an application under Sections 17.80.050C., 17.80.060B., or 17.80.070B. the following information is required:
- The information required in OCMC Chapter 17.80.90.AB;
  - 1. Pre-application notes;
  - A written response demonstrating compliance with each criterion listed in the Site Plan and Design Review Standards of Chapter 17.62.050, 17.56, and all other applicable criterion as defined by the community development director as applicable
  - 3. For an application under Section 17.80.070. Construction of Modification of a Support Tower, the requirements listed under Section 17.80.090.ED. Supplemental Information are required;
  - 4. Responses to conditional use review criteria under Chapter 17.56.010;
  - For an application under Section 17.80.050C. Collocation of Additional Antenna(s) on Support Structures, rationale for being unable to collocate in areas identified in Sections 17.80.050A. and 17.80.050B. shall be provided;

- 6. For an application under Section 17.80.060B. Collocation of Additional Antenna(s) on Utility Poles, Light Standards, and Light Poles, rationale for being unable to collocate in areas identified in Section 17.80.060A. shall be provided; and
- 7. For an application under Section 17.80.070B. Construction or Modification of a Support Tower, rationale for being unable to collocate in areas identified in Section 17.80.070A. shall be provided.
- 8. Supplemental information listed in OCMC Chapter 17.80.90ED.
- <u>E</u>D. Supplemental Information. The applicant shall submit the following information for all applications subject to conditional use and site plan and design review:
  - 1. The capacity of the support tower in terms of the number and type of antennas it is designed to accommodate;
  - A signed agreement, as supplied by the city, stating that the applicant shall allow collocation with other users, provided all safety, structural, technological, and monetary requirements are met. This agreement shall also state that any future owners or operators will allow collocation on the tower.
  - 3. Documentation demonstrating that the Federal Aviation Administration has reviewed and approved the proposal, and Oregon Aeronautics Division has reviewed the proposal. Alternatively, a statement documenting that notice of the proposal has been submitted to the Federal Aviation Administration and Oregon Aeronautics Division may be submitted. The review process may proceed and approval may be granted for the proposal as submitted, subject to Federal Aviation Administration approval. If Federal Aviation Administration approval requires any changes to the proposal as initially approved, then that initial approval shall be void. A new application will need to be submitted, reviewed, and approved through an additional site plan and design review or conditional use review process. No building permit application shall be submitted without documentation demonstrating Federal Aviation Administration review and approval and Oregon Aeronautics Division review.
  - 4. A visual study containing, at a minimum, a graphic simulation showing the appearance of the proposed tower, antennas, and auxiliary support equipment from at least five points within a one-mile radius. Such points shall be chosen by the provider with a review and approval by the community development director to ensure that various potential views are represented.
  - 5. Documentation that one or more wireless communications service providers will be using the support tower within sixty days of construction completion.
  - 6. A site plan, drawn to scale, that includes:
    - a. Existing and proposed improvements;
    - b. Adjacent roads;
    - c. Parking, circulation, and access;
    - d. Connections to utilities, right-of-way cuts required, and easements required;
    - e. A landscape plan describing the maintenance plan and showing areas of existing and proposed vegetation to be added, retained, replaced, or removed; and
    - f. Setbacks from property lines or support structure edges of all existing and proposed structures. Plans that have been reduced, but have not had their scale adjusted, will not be accepted as satisfying this requirement.
  - 7. An alternatives analysis for new support towers demonstrating compliance with the Support Tower Location Requirements of Chapter 17.80.100.

#### 17.80.110 - Design standards.

Installation, collocation, construction, or modification of all support towers, structures, and antennas shall comply with the following standards, unless <u>it qualifies as an "eligible modification" under Section</u> <u>17.80.035 or an adjustment is obtained pursuant to the provisions of Section 17.80.120</u>.

- A. Support Tower. The support tower shall be self-supporting.
- B. Height Limitation. Support tower and antenna heights shall not exceed the maximum heights provided below.
  - 1. If the property is zoned GI, CI or I; and no adjacent parcel is zoned residential the maximum height of a support tower, including antennas, is one hundred twenty feet.
  - 2. If the property is zoned: a. GI, CI or I, and an adjacent parcel is zoned residential; or b. C, MUC-2 or MUE; the maximum height of a support tower, including antennas, is one hundred feet.
  - 3. If the property is zoned MUC-1, MUD or NC; the maximum height of a support tower, including antennas, is seventy-five feet.
  - 4. For all cases other than those identified in Section 17.80.110.B.1-3 above, the maximum height of a support tower, including antennas, is seventy-five feet.
- C. Collocation. New support towers shall be designed to accommodate collocation of additional providers.
  - 1. New support towers of a height greater than seventy-five feet shall be designed to accommodate collocation of a minimum of two additional providers either outright or through future modification of the tower.
  - 2. New support towers of a height between sixty feet and seventy-five feet shall be designed to accommodate collocation of a minimum of one additional provider either outright or through future modification of the tower.
- D. Setbacks. The following setbacks shall be required from property lines, not the lease area, for support towers, auxiliary support equipment, and perimeter fencing.
  - 1. Support towers not designed to collapse within themselves shall be setback from all property lines a distance equal to the proposed height of the support tower.
  - 2. Support towers designed to collapse within themselves shall be setback from the property line a distance equal to the following:
    - a. If the property is zoned GI, CI, I, C, MUC-2 or MUE; and no adjacent parcel is zoned for a residential use the underlying zone setback shall apply;
    - b. If the property is zoned:
      - i. GI, CI, I, C, MUC-2 or MUE and an adjacent parcel is zoned residential; or
      - ii. MUC-1, MUD or NC; the setback shall be a minimum of twenty-five feet from all adjacent residentially zoned property lines and the underlying zoning setback for all other adjacent property lines; or
    - c. For all cases other than those identified in Section 17.80.110.D.2.a. and b. above, the setback shall be a minimum of twenty-five feet from all adjacent property lines.
- E. Auxiliary Support Equipment. The following standards shall be required.
  - 1. If the property is zoned:
    - a. For GI, CI, I, MUC-1, MUC-2, C, MUD, MUE or NC, the auxiliary support equipment footprint shall not exceed an area of three hundred forty square feet and fifteen feet in height at the peak;
    - b. For all cases other than those identified in Section 17.80.110.E.1.a. above, the auxiliary support equipment shall be:
      - i. Located underground or completely screened by landscaping or an architecturally significant masonry wall. The wall shall be finished with brick, stone, or stucco. The community development director may approve an alternate screening material if it is

compatible with adjacent development and is architecturally significant. No exposed CMU is allowed on the exterior of the wall.

- 2. Only one auxiliary accessory cabinet shall be allowed per service provider located on a support structure.
- F. Landscaping. In all zoning districts, existing vegetation shall be preserved to the maximum extent practicable. Screening of a site is mandatory.
  - 1. If the property is zoned:
    - a. GI or CI, and no adjacent parcel is zoned residential, landscaping may not be required if water quality issues are addressed and appropriate screening around the facility is proposed;
    - b. For all cases other than those identified in Section 17.80.110.F.1.a. above, landscaping shall be placed completely around the perimeter of the wireless communication facility, except as required to gain access. The minimum planting height shall be a minimum of six feet at the time of planting, densely placed so as to screen the facility. The landscaping shall be compatible with vegetation in the surrounding area, and shall be kept healthy and well maintained as long as the facility is in operation. Failure to maintain the site will be grounds to revoke the ability to operate the facility.
    - c. The community development director may approve an alternative landscaping plan that visually screens the facility and is consistent with the intent of this standard.
- G. Noise Reduction. Noise generating equipment shall be baffled to reduce sound level measured at the property line to the following levels except during short durations for testing and operation of generators in emergency situations:
  - 1. For any property where no adjacent parcel is zoned residential, the sound level at the property line shall not be greater than fifty dB;
  - 2. For all other cases, the sound level shall not be greater than forty dB when measured at the nearest residential parcel's property line.
- H. Lighting.
  - 1. Unless required by the Federal Aviation Administration or the Oregon Aeronautics Division, artificial lighting of wireless communication towers and antennas shall be prohibited.
  - 2. Strobe lighting is prohibited unless required by the Federal Aviation Administration.
  - 3. Security lighting for equipment shelters or cabinets and other on-the-ground auxiliary equipment shall be initiated by motion detecting lighting. The lighting shall be the minimal necessary to secure the site, shall not cause illumination on adjacent properties in excess of a measurement of 0.5 footcandles at the property line, and shall be shielded to keep direct light within the site boundaries.
- I. Color.

Unless otherwise required by the Federal Aviation Administration, all support towers and antennas shall have a non-glare finish and blend with the natural background.

J. Signage.

Support towers and antenna(s) shall not be used for signage, symbols, flags, banners, or other devices or objects attached to or painted on any portion of a wireless communication facility.

## K. Access Drives.

- 1. On a site with an existing use, access shall be achieved through use of the existing drives to the greatest extent practicable. If adequate intersection sight distance is unavailable at the existing access intersection with a city street, an analysis of alternate access sites shall be required.
- 2. Site shall be serviced by an access adequate to ensure fire protection of the site.
- 3. New access drives shall be paved a minimum of twenty feet deep from the edge of the right-ofway (though the use of pervious paving materials such as F-mix asphalt, pavers, or geotech

webbing is encouraged) and designed with material to be as pervious as practicable to minimize stormwater runoff.

- 4. New access drives shall be reviewed for adequate intersection sight distances.
- L. Informing the city. All service providers with facilities within the city of Oregon City shall be required to report in writing to the community development director any changes in the status of their operation.
  - 1. An annual written statement shall be filed with the Planning Manager verifying continued use of each of their facilities in the city's jurisdiction as well as continued compliance with all state and federal agency regulations.
  - 2. The report shall include any of the following changes:
    - a. Changes in or loss of Federal Communication Commission license from the Federal Communication Commission to operate;
    - b. Receipt of notice of failure to comply with the regulations of any other authority over the business or facility;
    - c. Change in ownership of the company that owns wireless communication facility or provides telecommunications services; or
    - d. Loss or termination of lease with the telecommunications facility for a period of six months or longer.



Home Builders Association of Metropolitan Portland

February 26, 2018

Denyse McGriff, Chair Oregon City Planning Commission 625 Center Street Oregon City, OR 97045

Subject: Lot Size Averaging

Dear Chair McGriff and Commissioners:

The HBA of Metropolitan Portland appreciates the opportunity to comment on the proposed modification to the city's community development code, specifically the portion dealing with lot size averaging.

We would like to express our support for keeping the lot size averaging code language as is, without any of the proposed modifications included in the staff report. The Lot size averaging provision of the Oregon City community development code is an extremely useful tool to maximize the efficiency of developable land within a given development.

Our region is experiencing a housing crisis because there is a severe shortage of homes of all types and price points. It would seem counter intuitive to our association to alter the city code in a way that will cost buildable lots that are perfectly serviceable by existing infrastructure, within a city's urban growth boundary, and help that city meet their density standards.

The HBA cannot support code changes that take housing options off of the table.

We appreciate your consideration of the above noted items.

Respectfully,

James Adkins Home Builders Association of Metropolitan Portland

Home Builders Association of Metro Portland 15555 SW Bangy Rd., Ste. 301 Lake Oswego, OR97035 503-684-1880 • Fax 503-684-0588 Thank you, we will enter it into the record.

#### -Laura Terway

On Feb 25, 2018, at 4:12 PM, Debbie Derusha <<u>dcderusha1@comcast.net</u>> wrote:

#### Hi Laura,

My name is Debbie DeRusha. My husband and I have been residents of Oregon City since 1993. Being self employed, we have been working hard at building our retirement nest egg with real estate in Oregon City. We are the owners of three residential homes, two very popular adult care homes, and two developable small acreage lots, all adjacent to our primary residence. We are good stewards of the property we own as is evidenced by our neighbor's continuing compliments. Oregon City is our home and we are proud of it.

When we purchased our first home all the surrounding land was farm land and fields. We are now surrounded by hundreds of single family homes, seeing Oregon City explode with new residents. Our extended neighborhood are young families who have come to Oregon City for the great schools and more rural, affordable living. Now we see parents of those same families moving into town to be near grandkids.

Under the current code, we could add four new homes on the small acreage that we bought specifically for that purpose. Since there is an existing house, lot averaging rules are applied to gain those four houses. Any reduction to that code will negatively impact our ability to bring that plan to fruition.

In preparation for providing our feedback on the lot averaging proposal, we watched the related videos of commission meetings. Two things were apparent: 1) citizen complaints have been the basis of the push for a change, and, 2) the specificity of the complaint is unclear (is it lot size being too small, is it one specific development with a power line easement, ...). We consulted with Laura Terway to get clarification. She referred us to the newly inserted language in the Proposed Draft Code Changes in tonight's agenda documents. The six options proposed further support the need for clarity in the intended outcome. In the videos, Commission Chair McGriff expressed repeatedly that the City Commission tasked them with fixing a problem. What exactly is that problem?

Until a specific proposal is named it is difficult to assess our position. So, for now, we offer these comments:

The request to change the lot averaging code seems to be related to, at least in part, one large development and how it has impacted its neighbors. Too many

times we see rules changed for all because of the actions of a few, thereby creating unintended consequences. If a code change is necessary, we would request that smaller, infill developments, like ours, be part of the consideration. There are many small acreage sites in Oregon City whose owners don't know this code change will affect them. Their future potential may be in jeopardy.

Because the smaller developments need to conform with all other development codes and their related costs, losing just one lot could mean the demise of the entire project. This is the case for us.

Without a development potential that makes financial sense, the only allure that small acreage holds for an owner is a big single family home, or a flag lot. The city then loses the density it needs, tax revenue, and additional affordable housing.

I know I'm preaching to the choir but it's worth saying it: the more we limit the ability to build housing the less affordable it is. Whether limiting larger developments by five lots or denying the small acreage home builder any opportunity, housing units lost will inflate the costs of those that exist.

We have lived through so much development that perhaps we are less emotionally impacted by its pervasiveness. We knew it was inevitable. It happened on the west side of Portland, and once it was discovered that Oregon City really wasn't all that far away, we were next. We are pleased that Oregon City is an attractive place to live. Clearly, many people want to live here. The Commission Chair Person is right when she says we are a unique and proud community. We should welcome those who want to be part of our great City, new families, extended families and job seekers alike.

Once the ambiguity is removed, I'm sure our city officials will find a solution. We would like to suggest that the solution not inhibit smaller developments from being a viable component of our city's resources for affordable housing, added tax revenue and needed infill.

We would like to request a continuance of this process to allow time to analyze options and explore consequences. We would also like to request that the current code remain the same for developments with 10 or fewer lots. Depending on the Commission's recommendation we feel it would be prudent to solicit further comments from a more targeted audience of citizens.

Respectfully submitted, Debbie & Craig DeRusha

## Laura Terway

From:	Nathan McCarty <mccartyn@aks-eng.com></mccartyn@aks-eng.com>
Sent:	Friday, January 05, 2018 8:23 AM
То:	Laura Terway
Cc:	Chris Goodell; Monty Hurley
Subject:	Lot Reductions Proposed Code Revisions
Attachments:	5837 20170807 Lindsay Anne Estates Too - Preliminary Land Use Subdivision Plan.pdf;
	5837 20180102 Prelim Plat with New Code.pdf

Laura,

To summarize what was discussed at the stakeholder's meeting yesterday morning, if the draft code language was adopted by the City and effective and we didn't already have the Lindsay Anne Estates Too application in/approved, it would have reduced the density by 5 lots. See attached. It wouldn't meet the City's minimum density requirement unless the PGE easement was taken out of the site's net developable area for the calculation.

We also discussed looking at other potential layouts of Lindsay Anne Estates Too. After looking into it, changing the "Up to 25% of the lots in a subdivision..." to 50% or all (100%) would <u>not</u> have affected this layout as only two of the lots were less than 6,000 S.F.

If the 125' wide PGE easement was taken out of the site's net developable area for the calculation (and considered unbuildable), lots 3 and 28 would be negatively affected.

It is the change of the code from twenty percent less than the required minimum lot area to ten percent less that would have reduced the number of lots on this project by 5 lots.

If you have further questions, or want to discuss other effects of the code changes to this project, please contact Chris Goodell in our office (copied on this email).

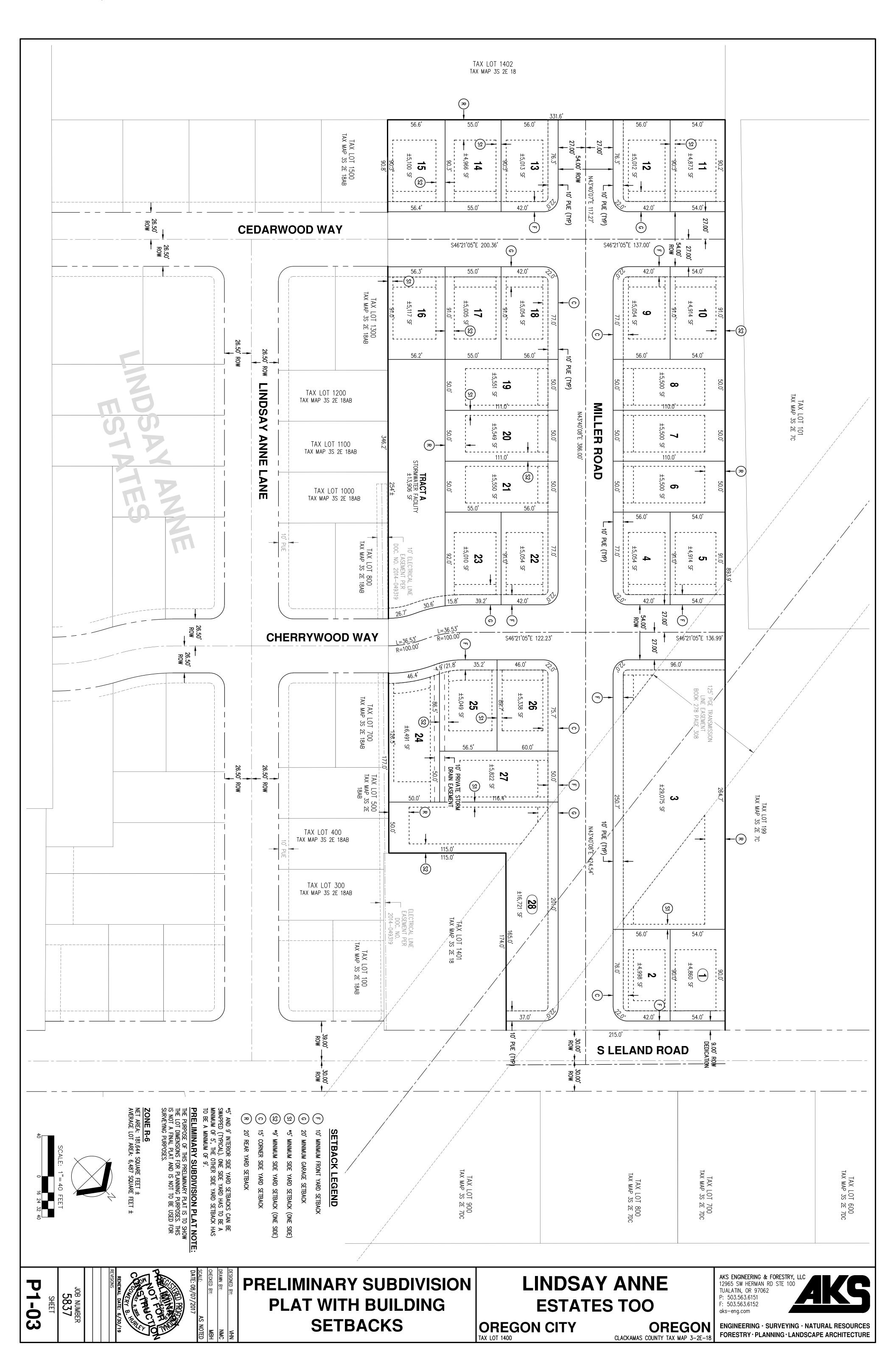
Regards, Nathan McCarty - El

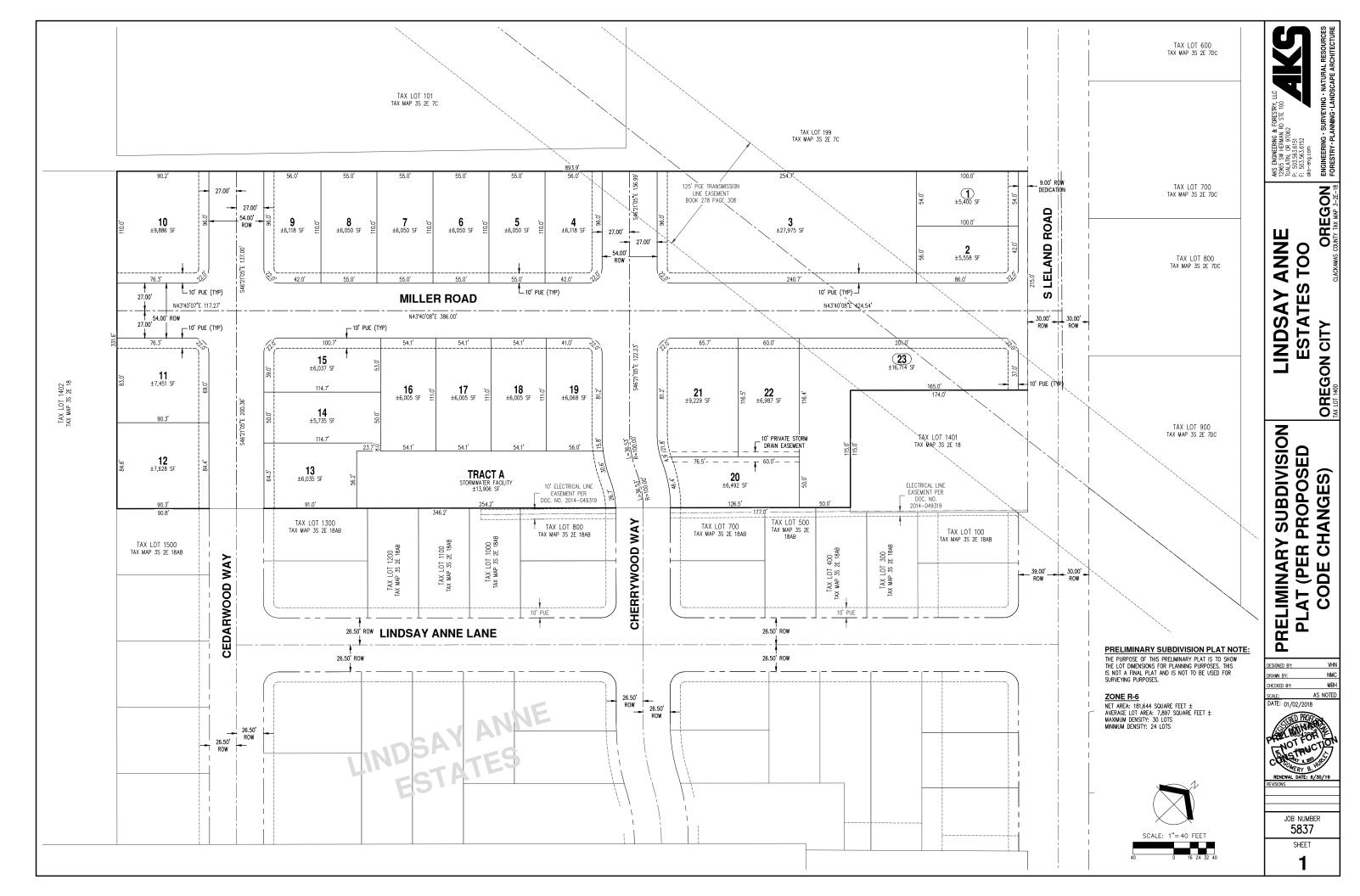


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 From:
 Mike Mitchell

 To:
 Kelly Reid

 Subject:
 Re: code revisions - typos, etc

 Date:
 Friday, January 19, 2018 8:36:08 AM

 Attachments:
 OCMC Code Revisions redline version typos, etc. V2.docx

Kelly,

Thanks for walking me through this. Here is the corrected version for the record.

Have a great weekend! Mike

On Thu, Jan 18, 2018 at 5:23 PM, Kelly Reid <<u>kreid@orcity.org</u>> wrote:

Mike,

Good catches - thanks for combing through it all!

It's probably best if you send me a corrected version yourself. I will at it to the official record for this item. And yes, you can absolutely comment in person as well. Monday is a work session and the Planning Commission typically does allow for public comment at work sessions, although it is not part of the legal process.

Thanks,

Kelly Reid, AICP, Planner

Oregon City Planning Division

221 Molalla Ave, Ste. 200

Oregon City, OR 97045

(503) 496-1540

kreid@orcity.org

City Website: <u>www.orcity.org/planning</u>

Mapping Tools: <u>https://maps.orcity.org</u>

From: Mike Mitchell [mailto:mike.k.mitchell@gmail.com]
Sent: Thursday, January 18, 2018 4:25 PM
To: Kelly Reid <<u>kreid@orcity.org</u>>
Subject: RE: code revisions - typos, etc

Can you correct my typo, or should I send you a correct version? I would like this to be submitted as public comment, as long as as I can also comment in person at Monday's meeting.

Mike

On Jan 18, 2018 3:28 PM, "Kelly Reid" <<u>kreid@orcity.org</u>> wrote:

Thanks Mike. Would you like this to be added to the record as a public comment?

Kelly Reid, AICP, Planner

Oregon City Planning Division

221 Molalla Ave, Ste. 200

Oregon City, OR 97045

(503) 496-1540

kreid@orcity.org

City Website: <a href="http://www.orcity.org/planning">www.orcity.org/planning</a>

Mapping Tools: <u>https://maps.orcity.org</u>

From: Mike Mitchell [mailto:mike.k.mitchell@gmail.com]
Sent: Thursday, January 18, 2018 3:03 PM
To: Kelly Reid <<u>kreid@orcity.org</u>>
Subject: code revisions - typos, etc

Kelly,

Rather than spend time at the Planning Commission meeting on little stuff, please take a look at these typos, etc that I found and think should be corrected.

I plan to attend the meeting Monday night to bring up some other items that I think need to be re-visited.

Thanks,

Mike Mitchell

OCMC Code Revisions red-lined version - typos, etc.

#1: 17.04.420: the first sentence revises "thirteen" to "sixteen". The second sentence still says "thirteen".

#2: 17.58.40 section C.2.a: Second sentence as redlined reads: "The standards of subparagraph C.2.b. below shall be met when the value of , as determined by the community development director....". That sentence doesn't seem to make sense... value of what?

#3: 17.62.050 section A.21.a.iv: should be "batten", not "baton".

#4: 17.62.050 section A.21.c.3.: should be "troweled", not "toweled".

#5: Table 1-17.62.65: The abutting property/maximum number should be ".5", not ".05".

#6: 17.62.065 section D.4 Pedestrian Accessways: the words "a high pressure sodium bulb with" should be removed (since the intent is to make this section technology agnostic).

Submitted by Mike Mitchell

1/18/2018

From:	Paul Edgar
To:	Laura Terway
Cc:	Christina Robertson-Gardiner; Kelly Reid
Subject:	OCMC 17.49.[0]80 Draft Code Amendments
Date:	Wednesday, January 24, 2018 3:36:04 PM

I am looking at the Planning Commission Work Session Document with Draft Code Amendments. dated 1/22/2018

file:///C:/Users/Paul/AppData/Local/Packages/Microsoft.MicrosoftEdge\_8wekyb3d8bbwe/TempState/Downloads/Draft%20Code%20Amendments.pdf

In RED, it lists new changes to be brought before the Planning Commission.

The following uses are allowed within the NROD and do not require the issuance of an NROD permit:

OCMC 17.49.(O)80, You are asking for what is currently in City Code to be changed to this.

D: Fences in which posts disturb no more than one hundred square feet of ground surface outside of the top of bank of water bodies.

What is currently in OCMC code for Fence Post, within NROD, currently in OCMC Code, that requires this change?

Fence Posts that are "**pressure treated**, with toxic chemicals", in NROD Overlay and within 50 feet of a creek or body of water, what are all of the current OCMC codes that regulate this environment?

When you are also in the Canemah National Register Historic District Overlay, what additional OCMC Codes, need to be considered?

When a Fence is built or planned to be built or re-built into the Platted ROW, what is required to allow that to happen, what are the OCMC Codes and requirements that applies to this?

I am also looking at a letter dated September 27, 2017 From: Christina Robertson-Gardiner, To: Laura Terway, RE: 302 3rd Avenue - Ervin Carothors House, CODE REVIEW

#### Page 2.

OCMC 17.49.(0)70 Prohibited uses, C. Utility service using a single utility pole or where no more than one hundred square feet of ground surface is disturbed outside of the top-of-bank of water bodies and where the disturbed area is restored to pre-construction conditions.

From reading this it appears, that this OCMC 17.49.(O)70 did not apply and that is the reason for this Code Amendment being requested in these Draft Code Amendments: OCMC 17.49.(O)80.D ??

Additionally on page 4. we need greater clarity where you spell out HRB Policy #6 (First Adopted 9/88; Revised 6/91) - Policy on Construction of Fences and Walls and the paragraph "Fence or Wall Height".

Front yard fences or walls and corner side yard fences or walls should be no more than 42 inches in height and shall not create a traffic site obstruction (as defined in Chapter 10.32 of the Oregon City Municipal Code). Along rear yards and interior side yards (beyond the front yard setback, fences or walls may be up to six (6) feet in height.

Please help provide a better clarity - understanding of what the Legal Interpretation is of a "corner side yard"?

The house at 302 3rd Avenue, has a corner side on Ganong Street and there appears to be a fence that is built to a height of approximately six (6) feet in height and it also appears to be approximately eight (8) to ten (10) feet into the Ganong Street ROW. And in addition it blinds the view of motor vehicles and pedestrians that are driving or walking on the 3rd & 4th Avenues and Ganong Streets. The obstructed view is very dangerous as this route is the primary access road for maybe 50 residents, that can generate over 500 incidents of travel daily. It has also been identified as a primary designated route for the proposed McLoughlin to Canemah Trail and a walking route used by many within the Canemah neighborhood. In the winter time this area of Ganong Street is especially dangerous (I have had a car accident here), with more darkness, wet and slippery streets, it grade of incline/decline and the speed of motor vehicles allowed to drive at 25 MPH. Important to this speed that motor vehicles are allowed at 25 MPH is the feet per second that they can be traveling and what that represents in adding to the danger contingencies, with this street obstruction of view.

Paul Edgar, Friends of Canemah

From:	Paul Edgar
To:	Laura Terway
Subject:	Re: OCMC 17.49.[0]80 Draft Code Amendments
Date:	Wednesday, January 24, 2018 4:24:08 PM

Laura, we need some answers and clarity to these questions that are in this email, not just including them in the record. Where we have ? question marks, it was our hope that everyone can get clarity.

The lack of clarity, creates problems and contention, but worse is the division in the Canemah Historic District and other neighborhoods. The faster we get clarity, the City positions/answers questions, long term resolution can follow. Building and re-building a six (6') high fence out in to the Right-of-Way of Ganong Street, that makes it more dangerous to public safety, needs clarification. What is the Legal answer to what is a side on a corner lot? The questions on NROD need answers.

#### Please help, Paul

On 1/24/2018 3:48 PM, Laura Terway wrote:

Paul, Thank you for the comments, we will include them in the record.

Laura Terway, AICP, Community Development Director City of Oregon City 503.496.1553

From: Paul Edgar [mailto:pauloedgar@q.com]
Sent: Wednesday, January 24, 2018 3:36 PM
To: Laura Terway
Cc: Christina Robertson-Gardiner; Kelly Reid
Subject: OCMC 17.49.[0]80 Draft Code Amendments

I am looking at the Planning Commission Work Session Document with Draft Code Amendments. dated 1/22/2018

file:///C:/Users/Paul/AppData/Local/Packages/Microsoft.MicrosoftEdge\_8wekyb3d8bbwe/TempState/Downloads/Draft%20Code%20Amendments.pdf

In RED, it lists new changes to be brought before the Planning Commission.

The following uses are allowed within the NROD and do not require the issuance of an NROD permit:

OCMC 17.49.(O)80, You are asking for what is currently in City Code to be changed to this.

D: Fences in which posts disturb no more than one hundred square feet of ground surface outside of the top of bank of water bodies.

What is currently in OCMC code for Fence Post, within NROD, currently in OCMC Code, that requires this change?

Fence Posts that are "pressure treated, with toxic chemicals", in NROD Overlay and within 50 feet of a creek or body of water, what are all of the current OCMC codes that regulate this environment?

When you are also in the Canemah National Register Historic District Overlay, what additional OCMC Codes, need to be considered?

When a Fence is built or planned to be built or re-built into the Platted ROW, what is required to allow that to happen, what are the OCMC Codes and requirements that applies to this?

I am also looking at a letter dated September 27, 2017 From: Christina Robertson-Gardiner, To: Laura Terway, RE: 302 3rd Avenue - Ervin Carothors House, CODE REVIEW

Page 2.

OCMC 17.49.(0)70 Prohibited uses, C. Utility service using a single utility pole or where no more than one hundred square feet of ground surface is disturbed outside of the top-of-bank of water bodies and where the disturbed area is restored to pre-construction conditions.

From reading this it appears, that this OCMC 17.49.(O)70 did not apply and that is the reason for this Code Amendment being requested in these Draft Code Amendments: OCMC 17.49.(O)80.D ??

Additionally on page 4. we need greater clarity where you spell out HRB Policy #6 (First Adopted 9/88; Revised 6/91) - Policy on Construction of Fences and Walls and the paragraph "Fence or Wall Height".

Front yard fences or walls and corner side yard fences or walls should be no more than 42 inches in height and shall not create a traffic site obstruction (as defined in Chapter 10.32 of the Oregon City Municipal Code). Along rear yards and interior side yards (beyond the front yard setback, fences or walls may be up to six (6) feet in height.

Please help provide a better clarity - understanding of what the Legal Interpretation is of a "corner side yard"?

The house at 302 3rd Avenue, has a corner side on Ganong Street and there appears to be a fence that is built to a height of approximately six (6) feet in height and it also appears to be approximately eight (8) to ten (10) feet into the Ganong Street ROW. And in addition it blinds the view of motor vehicles and pedestrians that are driving or walking on the 3rd & 4th Avenues and Ganong Streets. The obstructed view is very dangerous as this route is the primary access road for maybe 50 residents, that can generate over 500 incidents of travel daily. It has also been identified as a primary designated route for the proposed McLoughlin to Canemah Trail and a walking route used by many within the Canemah neighborhood. In the winter time this area of Ganong Street is especially dangerous (I have had a car accident here), with more darkness, wet and slippery streets, it grade of incline/decline and the speed of motor vehicles allowed to drive at 25 MPH. Important to this speed that motor vehicles are allowed at 25 MPH is the feet per second that they can be traveling and what that represents in adding to the danger contingencies, with this street obstruction of view.

Paul Edgar, Friends of Canemah

Kelly:

I don't think there is any transportation impact from these changes.

Let me know if you think there's something I missed.

John

John Replinger, PE Replinger & Associates LLC 6330 SE 36th Avenue Portland, OR 97202 503-719-3383 replinger-associates@comcast.net

From: "Kelly Reid" <kreid@orcity.org> Cc: "Laura Terway" <lterway@orcity.org> Sent: Friday, December 22, 2017 5:02:24 PM Subject: Land Use Application Transmittal L 17-04

Good Evening,

The following application for code amendments and changes to the City's Development code has been submitted. The application materials may be found here: <u>https://www.orcity.org/planning/project/l-17-04-development-code-updates</u>

Any interested party may testify at the public hearing or submit written testimony at or prior to the hearing. Written comments must be received at City Hall by January 11, 2018 to be included in the Planning Commission staff report.

# PLANNING COMMISSION HEARING DATE:

On **January 22, 2018** the *City of Oregon City - Planning Commission* will conduct a public hearing at 7:00 p.m. in the City Hall Commission Chambers at City Hall, 625 Center Street, Oregon City 97045 to consider the following Type IV application:

FILE NUMBER:	LE-17-04
APPLICANT:	City of Oregon City Planning Division
	625 Center Street
	Oregon City, OR 97045
REQUEST:	Amendments to various Chapters of the Oregon City
	Municipal Code to update and correct development codes.
	Includes changes to regulations that govern property
	development and land use processes.
LOCATION:	City-wide
CONTACT PERSON:	Kelly Reid, AICP, Planner (503) 722-3789
NEIGHBORHOOD ASSN:	City-wide
CRITERIA:	Administration and Procedures set forth in Chapter 17.50
	and Zoning Changes and Amendments in Chapter 17.68 of
	the Oregon City Municipal Code. An electronic version of the
	proposed amendments is available on the city's website
	www.orcity.org

Kelly Reid, AICP Planner, City of Oregon City (503) 496-1540 <u>kreid@orcity.org</u> -Laura Terway

Begin forwarded message:

From: Roseann Sheeon <<u>rsheeon@yahoo.com</u>> Date: January 20, 2018 at 6:06:45 PM PST To: <u>lterway@orcity.org</u> Subject: Ordinances 18-1004 and 18-1005

We are new to Oregon City. Over the last two years the growth with no consideration for the overcrowded schools and traffic patterns is unconscionable! My grandson has 33 students in his 5th grade classroom. As a retired teacher...that is an impossible number for the teacher and the children. Please DO NOT pass these two items until the infrastructure is addressed and fixed.

Carl and Roseann Sheeon 20257 Quinalt Dr 503.722.3890

Sent from my iPad

# 2015 REGIONAL INVENTORY OF REGULATED AFFORDABLE HOUSING SUMMARY REPORT

# WHAT IS REGULATED AFFORDABLE HOUSING?

For the purposes of this inventory, regulated affordable housing is defined as housing that is made affordable through public subsidies and/or agreements or statutory regulations that restrict or limit resident income levels and/or rents. Regulated affordable housing generally provides housing for households that otherwise could not afford adequate housing at market rates.<sup>1</sup>

# WHY DOES METRO TRACK REGULATED AFFORDABLE HOUSING?

The <u>Regional Framework Plan</u> states that it is the policy of the Metro Council to "provide housing choices in the region... paying special attention to those households with the fewest housing choices." Title 7 (Housing Choice) of Metro's <u>Urban Growth Management Functional Plan</u> requires Metro to track the creation of new affordable housing in the Portland region.

Metro last completed an inventory of regulated affordable housing in the Portland region in 2011. Metro has updated the inventory because local partners have indicated it is useful for several purposes, including grant proposals and consolidated housing plans. Updating the inventory also provides a means of understanding what has changed since 2011.

# **MEDIAN FAMILY INCOMES AND HOUSING**

Eligibility for affordable housing programs is based on the median family income (MFI) for the Portland-Vancouver-Beaverton OR-WA Metropolitan Statistical Area. According to the US Department of Housing and Urban Development (HUD), the 2015 MFI for a family of four in the Portland region was \$73,900. Title 7 of Metro's Urban Growth Management Functional Plan focuses on two kinds of households: those earning less than 30 percent of regional MFI, and those earning between 30 and 50 percent of regional MFI. A four-person household making less than 50 percent of the regional MFI would earn less than \$36,750 per year; if their income was 30 percent of MFI, they would be earning less than \$22,050.

Incomes at different percentages of regional MFI are provided in Table 1 on the following page. TABLE 1: 2015 INCOMES AT VARIOUS HOUSEHOLD SIZES AND LEVELS OF MFI

<sup>&</sup>lt;sup>1</sup> Subsidized ownership units may also include homes built or rehabilitated by non-profits such as Habitat for Humanity. When available, data regarding these types of units are included in the database.

Household size	At 30% MFI	At 50% MFI	At 60% MFI	At 80% MFI	At 100% MFI	At 120% MFI
1	\$15,450	\$25,750	\$30,900	\$41,200	\$51,730	\$62,076
2	\$17,650	\$29,400	\$35,280	\$47,050	\$59,120	\$70,944
3	\$20,090	\$33,100	\$39,720	\$52,950	\$66,510	\$79,812
4	\$24,250	\$36,750	\$44,100	\$58,800	\$73,900	\$88,680
5	\$28,410	\$39,700	\$47,640	\$63,550	\$79,812	\$95,774
6	\$32,570	\$42,650	\$51,180	\$68,250	\$85,724	\$102,869
7	\$36,730	\$45,600	\$54,720	\$72,950	\$91,636	\$109,963
8	\$40,890	\$48,550	\$58,260	\$77,650	\$97,548	\$117,058

Source: US Department of Housing and Urban Development (HUD), 2015. Data is for the Portland-Vancouver-Hillsboro, OR-WA MSA.

Title 7 directs Metro to use a standard measure of affordability: Housing should cost no more than 30 percent of household income. Based on this assumption, Table 2 provides estimates of rents that would be affordable for households in these two income brackets.

	TABLE 2: MAXIMUM MONTHLY RENT IN	CLUDING UTILITIES AT 30 AND 50 PERCENT	T MFI WITH A HOUSING BURDEN OF 30%
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Household size	At 30% MFI	At 50% MFI
1	\$386	\$643
2	\$441	\$735
3	\$502	\$828
4	\$606	\$919
5	\$710	\$993
6	\$814	\$1,066
7	\$918	\$1,140
8	\$1,022	\$1,214

Source: US Department of Housing and Urban Development (HUD), 2015. Data is for the Portland-Vancouver-Hillsboro, OR-WA MSA.

The private rental market in the Portland region produces very few new housing units that rent for \$828 per month and are livable for a family of three, and even fewer (if any) that rent for \$502 per month. Likewise, the private real estate market in the region generally does not produce new for-sale housing affordable to low-income households.

Some existing housing stock may be available in the Portland region within this price range. Practically speaking, however, regulated affordable housing provides the only newly-built housing that is affordable for low-income households.

This report provides an inventory of the region's regulated affordable housing stock. This inventory does not include a formal assessment of the need for regulated affordable housing. However, it is generally understood that demand for these units far outstrips the current inventory. According to a 2015 study, there are approximately 103,000 units of housing (including regulated and market-rate units) in the four-county Portland region that are affordable to people earning less than 60 percent of median income.<sup>2</sup> With more than 185,000 households making less than 60 percent of median income, that leaves a shortage of more than 80,000 units of affordable housing.

<sup>&</sup>lt;sup>2</sup> Johnson Economics, ACS, Multifamily NW, Axiometric (2015). The four-county region is defined as Clackamas, Clark, Multnomah and Washington counties.

# **SUMMARY OF RESULTS**

As of 2015, Metro's four-county area inventory of regulated affordable housing includes 41,332 units, an increase of 2,417 units since the 2011 inventory. This constitutes 4.7 percent of the region's total housing stock.<sup>3</sup> Additionally, there were 15,978 Housing Choice Vouchers (also known as Section 8 Vouchers) in use in the four-county area in 2015. This is an increase of 766 vouchers since the 2011 inventory.

# NOTES AND CAVEATS ON THE DATA

- This inventory covers a four-county area, including Clackamas, Clark, Multnomah and Washington counties.
- This inventory does not include:
  - a. Shared bedrooms (i.e., dorms)
  - b. Homeless shelters
  - c. Market-rate/unregulated affordable housing (also sometimes called "naturally occurring affordable housing")
- Personal information about tenants is not included in this inventory.
- Some jurisdictions may have had a net decrease in the number of subsidized housing units, but an increase in the number of mobile Section 8 vouchers.
- The inventory includes all sites with at least one affordable housing unit.

The following agencies provided data for this 2015 inventory:

- Clackamas County Community Development
- Housing Authority of Clackamas County
- Home Forward (formerly Housing Authority of Portland)
- Portland Housing Bureau
- Portland Bureau of Planning and Sustainability
- Washington County Housing Authority
- Washington County Office of Community Development
- Vancouver Housing Authority
- Oregon Department of Housing and Community Services (OHCS)
- City of Beaverton
- City of Gresham
- Network for Oregon Affordable Housing
- U.S. Department of Housing and Urban Development
- Catholic Charities
- Metro

<sup>&</sup>lt;sup>3</sup> 883,192 total housing units in four-county area (source: 2010 Census)

# **2015 REGIONAL INVENTORY OF REGULATED AFFORDABLE HOUSING**

Figure 1 shows the distribution of regulated affordable housing in the Portland region. Larger dots indicate sites with more regulated affordable units. The color of the dots corresponds to the type of owner: for-profit, non-profit, government, or unknown. Units are depicted as "unknown" whenever the ownership type was not reported by partner agencies.

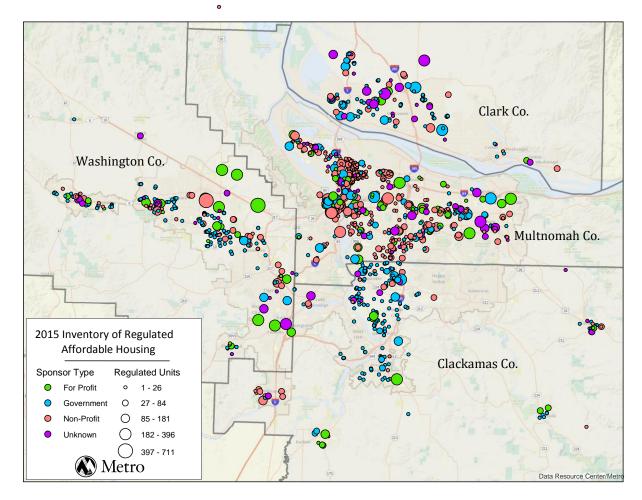


FIGURE 1: 2015 INVENTORY OF REGULATED AFFORDABLE HOUSING (FOUR-COUNTY AREA)

# **AFFORDABLE HOUSING BY JURISDICTION**

Table 3 (page 6) sorts the 2015 inventory by jurisdiction. If a jurisdiction is not listed, it is because there are no regulated affordable housing units in that jurisdiction. A site may include a mix of regulated and unregulated housing units (i.e., market-rate units).

	Number of	Total units			
COUNTY/City	sites with at least one regulated affordable unit	(unregulated and regulated) in these sites	Unregulated units	Regulated units	Share of regulated units in four-county area
CLACKAMAS	290	4,104	166	3,937	18.6%
Canby	8	343	2	341	0.5%
Estacada	9	143	1	142	0.6%
Gladstone	18	66	-	66	1.2%
Lake Oswego	3	201	-	201	0.2%
Milwaukie	35	369	-	369	2.2%
Molalla	9	167	2	165	0.6%
Oregon City	36	553	1	552	2.3%
Sandy	18	319	1	318	1.2%
West Linn	10	14	-	14	0.6%
Wilsonville	14	548	4	544	0.9%
Unincorporated	130	1,381	155	1,225	8.3%
CLARK	156	6,127	1,033	5,094	9.9%
Battle Ground	3	106	22	84	0.2%
Camas	5	120	53	67	0.3%
Ridgefield	3	10	-	10	0.2%
Vancouver	97	3,953	598	3,355	6.2%
Washougal	3	122	2	120	0.2%
Unincorporated	45	1,816	358	1,458	2.8%
MULTNOMAH	837	27,256	2,294	24,989	53.7%
Fairview	3	525	1	524	0.2%
Gresham	49	2,236	27	2,207	3.1%
Portland	782	24,063	2,265	21,827	50.1%
Troutdale	3	432	1	431	0.2%
WASHINGTON	278	7,436	129	7,307	17.8%
Banks	1	1	-	1	0.1%
Beaverton	36	683	13	670	2.3%
Cornelius	13	40	4	36	0.8%
Durham	1	210	-	210	0.1%
Forest Grove	35	663	11	652	2.2%
Hillsboro	76	2,346	9	2,337	4.9%
North Plains	1	33	-	33	0.1%
Portland	2	82	-	82	0.1%
Sherwood	8	125	1	124	0.5%
Tigard	18	705	10	695	1.2%
Tualatin	3	604	-	604	0.2%
Unincorporated	84	1,944	81	1,863	5.4%
Grand Total	1,561	44,923	3,622	41,327	100%

More than half of the region's inventory of regulated units is in Multnomah County, which also has the largest share of the four-county area's total housing stock. The great majority of sites and units – 83 percent and 89 percent, respectively – are located within incorporated areas, where people will generally have better access to commercial centers and services.

Table 4 (page 8) compares the 2011 inventory with the 2015 inventory. Changes in inventory numbers may be attributed to losses or gains in units as well as improved data collection methods. The 2015 inventory includes 2,412 more regulated affordable units than the 2011 inventory.

Center Type/Name	Difference in Number of Sites	Difference in number of total units	Difference in number of unregulated units	Difference in number of regulated units
CLACKAMAS	+5	+369	+150	+218
Canby	-	-	-	-
Estacada	-	-	+1	-1
Gladstone	-1	+4	-1	+5
Lake Oswego	+2	+171	-	+171
Milwaukie	+1	+53	-	+53
Molalla	+2	+8	-	+8
Oregon City	-	-	-	-
Sandy	-	-	-	-
West Linn	-	-	-	-
Wilsonville	-	-40	-	-40
Unincorporated	+1	+173	+150	+22
CLARK	+6	+152	+264	-112
Battle Ground	-	-	-	-
Camas	-	-	-	-
Ridgefield	-	-	-	-
Vancouver	+3	+78	+1	+77
Washougal	+1	+32	-	+32
Unincorporated	+2	+42	+263	-221
MULTNOMAH	+54	+2,923	+956	+1,999
Fairview	+1	+45	+1	+44
Gresham	+1	+48	+4	+42
Portland	+52	+2,830	+950	+1,914
Troutdale	-	-	+1	-1
WASHINGTON	+22	+402	+90	+312
Banks	+1	+1	-	+1
Beaverton	+4	+52	+1	+51
Cornelius	+1	+1	-	+1
Durham	-	-	-	-
Forest Grove	+4	+56	+11	+45
Hillsboro	+10	+147	+5	+142
North Plains	-	-	-	-
Portland	+1	+42	-	+42
Sherwood	+1	+24	-	+24
Tigard	-	-	-	-
Tualatin	-	-	-	-
Unincorporated	+2	+79	+73	+6
Grand Total	+87	+3,846	+1,460	+2,412

# **AFFORDABLE HOUSING AND THE 2040 GROWTH CONCEPT**

Metro's 2040 Growth Concept calls for focusing growth in centers and along major transportation corridors. These areas are most likely to provide access to services such as transit, banks and grocery stores, potentially reducing transportation costs. The 2040 Growth Concept identifies 38 centers.

Table 5 shows the inventory of regulated affordable housing located in designated centers inside the urban growth boundary (UGB). If a center is not listed, it is because there are no regulated affordable housing units in that center.<sup>4</sup>

Center Type/Name	Number of sites	Total units (unregulated and regulated) in these sites	Unregulated units	Regulated units	Share of four- county regulated units
Central City	86	8,801	1,201	7,638	39.4%
Portland	86	8,801	1,201	7,638	39.4%
Regional Center	65	2,928	28	2,900	28.0%
Beaverton	2	55	-	55	0.9%
Clackamas	5	428	-	428	2.3%
Gateway	12	734	17	717	5.5%
Gresham	9	539	3	536	4.1%
Hillsboro	35	775	8	767	14.2%
Oregon City	1	1	-	1	0.5%
Tanasbourne/AmberGlen	1	396	-	396	0.5%
Town Center	71	3,509	116	3,391	32.6%
Aloha	5	214	7	207	2.3%
Bethany	2	340	-	340	0.9%
Cedar Mill	1	608	-	608	0.5%
Gladstone	4	7	_	7	1.8%
Hillsdale	3	90	2	88	1.4%
Hollywood	4	427	102	325	1.8%
Lake Grove	1	45	-	45	0.5%
Lents	6	74	1	73	2.8%
Milwaukie	17	282	_	282	7.8%
Orenco	1	45	-	45	0.5%
Raleigh Hills	2	87	-	87	0.9%
Rockwood	19	749	4	743	8.7%
St. Johns	2	21	-	21	0.9%
Tigard	2	52	-	52	0.9%
Troutdale	1	228	-	228	0.5%
Tualatin	1	240	-	240	0.5%
Grand Total	222	15,238	1,345	13,929	100%

#### TABLE 5: REGULATED AFFORDABLE HOUSING BY 2040 GROWTH CONCEPT CENTER INSIDE UGB (2015)

<sup>&</sup>lt;sup>4</sup> The following centers have no affordable housing within their boundaries: Regional Centers – Washington Square. Town Centers – Cornelius, Damascus, Fairview/Wood Village, Forest Grove, Happy Valley, King City, Lake Oswego, Murray/Scholls, Pleasant Valley, Sherwood, Sunset Transit, West Linn, West Portland, Wilsonville.

Of the three types of centers, the Central City has the largest share of units, followed by Town Centers and Regional Centers. Altogether, these centers in the UGB contain about one-third of the four-county area's inventory of regulated affordable housing.

Table 6 shows the difference in the number of regulated affordable housing located in designated centers inside the urban growth boundary between 2011 and 2015. If a center is not listed, it is because there are no regulated affordable housing units in that center.

# TABLE 6: NET DIFFERENCE IN REGULATED AFFORDABLE HOUSING IN 2040 GROWTH CONCEPT CENTERS INSIDE UGB (2011 - 2015)

Center type/Name	Difference in number of sites	Difference in number of total units	Difference in number of unregulated units	Difference in number of regulated units
Central City	+9	+1,317	+503	+852
Portland	+9	+1,317	+503	+852
Regional Center	+36	+1,137	-4	+1,141
Beaverton	+1	+47	-	+47
Clackamas	+1	+41	-	+41
Gateway	+3	+149	-11	+160
Gresham	-	_	+1	-1
Hillsboro	+30	+504	+6	+498
Oregon City				_
Tanasbourne/ AmberGlen	+1	+396		+396
Town Center	+5	+247	+76	+169
Aloha	-	-	-	-
Bethany	-	-	-	-
Cedar Mill	-	-	-	-
Gladstone	-1	+2	-	+2
Hillsdale	-	-	-	-
Hollywood	+2	+94	+74	+20
Lake Grove	+1	+45	-	+45
Lents	-	-	-	-
Milwaukie	-	-	-	-
Orenco	+1	+45	-	+45
Raleigh Hills	+1	+14	-	+14
Rockwood	+1	+47	+2	+43
St. Johns	-	-	-	-
Tigard	-	-	-	-
Troutdale	-	-	-	-
Tualatin	-	-	-	-
Grand Total	+50	+2,701	+575	+2,162

# **HOUSING CHOICE VOUCHERS**

The Housing Choice Voucher Program (formerly known as Section 8) is the federal government's rental assistance voucher program for assisting very low-income families, the elderly and the disabled to afford decent, safe and sanitary housing in the private market. Since housing assistance is provided on behalf of the family or individual, participants are able to find their own housing, including single-family homes, townhouses and apartments. Participants are free to choose any housing that meets the requirements of the program and are not limited to units located in subsidized housing projects. Table 7 shows the number of vouchers in each of the four counties. These voucher numbers should not be added to the number of regulated affordable units to come up with a total inventory of subsidized housing in each county because Housing Choice Vouchers can be used in regulated affordable units.

County	Number of Housing Choice Vouchers			
	2011	2015	Percent Change	
Clackamas	2,610	2,787	+6.8%	
Clark	1,569	1,661	+5.9%	
Multnomah	8,510	9,013	+5.9%	
Washington	2,523	2,517	-0.2%	
Total	15,212	15,978	+5.0%	

#### TABLE 7: SNAPSHOT OF HOUSING CHOICE VOUCHERS<sup>5</sup> BY COUNTY (2011 & 2015)

# **NEW MEASURES: TRANSIT, PARKS AND CONCENTRATED POVERTY**

At the suggestion of regional partners who contributed to this inventory update, Metro has added three additional measures: Regulated affordable housing units' access to transit, proximity to parks and location relative to areas of concentrated poverty.

Affordable housing near transit offers access to jobs, education, and services without requiring the expense of personal car ownership, reducing transportation costs for low-income households. Transit planners report that people are most likely to use bus transit located less than a quarter-mile away, or about a 5-minute walk for an able-bodied person, while most people are willing to walk a half-mile to reach faster transit such as light rail.

Proximity to parks increases the availability of physical activity opportunities and has been linked to enhanced health outcomes.<sup>6</sup> Affordable housing near greenspaces may have positive outcomes for people with low incomes, who suffer disproportionately from health problems related to physical inactivity.<sup>7</sup>

Table 8 shows the percentage of regulated housing with walking access to transit and parks. The great majority of regulated affordable units are near some bus transit service, and three-quarters of all units are near a frequent bus stop or light rail station. Nearly all regulated affordable housing is within a half-mile of a park.

<sup>&</sup>lt;sup>5</sup> This is the number of Housing Choice Vouchers under the housing authority's Annual Contributions Contract with the U.S. Department of Housing and Urban Development.

<sup>&</sup>lt;sup>6</sup> Hood, E. (2005). Dwelling Disparities: How Poor Housing Leads to Poor Health. *Environmental Health Perspectives*, *113*(5).

<sup>&</sup>lt;sup>7</sup> Behavioral Risk Factor Surveillance System, 2015. Centers for Disease Control and Prevention.

#### TABLE 8: ACCESS TO TRANSIT AND PARKS FROM REGULATED AFFORDABLE HOUSING UNITS

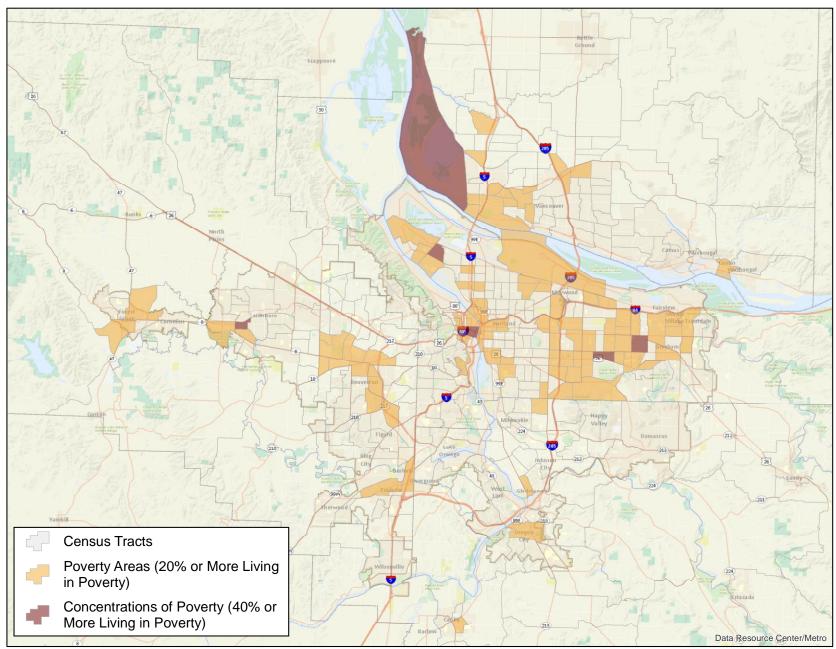
COUNTY/City	Within 1/4 mile of all bus service	Within 1/4 mile of frequent bus service	Within 1/2 mile of a light rail transit station	Near frequent bus service or light rail station	Within 1/2 mile of a park
CLACKAMAS	82%	32%	11%	33%	84%
Canby	77%	-	-	-	100%
Estacada	66%	-	-	-	100%
Gladstone	91%	67%	-	67%	100%
Lake Oswego	100%	-	-	-	100%
Milwaukie	100%	82%	19%	82%	100%
Molalla	2%	-	-	-	100%
Oregon City	96%	28%	-	28%	97%
Sandy	11%	-	-	-	83%
West Linn	71%	-	-	-	100%
Wilsonville	100%	-	-	-	100%
Unincorporated	85%	61%	31%	66%	56%
CLARK	97%	29%	-	29%	100%
Battle Ground	100%	-	-	-	100%
Camas	21%	-	-	-	100%
Ridgefield	-	-	-	-	100%
Vancouver	97%	33%	-	33%	100%
Washougal	100%	-	-	-	100%
Unincorporated	95%	23%	-	23%	99%
MULTNOMAH	98%	90%	59%	94%	97%
Fairview	100%	71%	-	71%	100%
Gresham	84%	69%	59%	88%	99%
Portland	100%	93%	62%	95%	96%
Troutdale	63%	63%	-	63%	100%
WASHINGTON	74%	45%	34%	66%	98%
Banks	-	-	-	-	100%
Beaverton	80%	33%	29%	51%	100%
Cornelius	61%	61%	-	61%	100%
Durham	100%	-	-	-	100%
Forest Grove	71%	71%	-	71%	83%
Hillsboro	54%	38%	89%	98%	100%
North Plains	-	-	-	-	100%
Portland	100%	51%	51%	51%	100%
Sherwood	73%	73%	-	73%	100%
Tigard	79%	76%	23%	79%	100%
Tualatin	60%	44%	-	44%	100%
Unincorporated	98%	42%	1%	42%	100%
Grand Total	92%	69%	43%	75%	96%

Regional partners also requested data on whether regulated affordable housing units were located in poverty areas or concentrated poverty areas.<sup>8</sup> Research from HUD and other sources have documented how living in poverty and concentrated poverty areas negatively affect individuals and families living there.<sup>9</sup> Impacts of neighborhood poverty include increased rates of crime, educational attainment, juvenile delinquency, psychological distress and health problems, among others. Locating regulated affordable housing in these areas could have unintended negative outcomes for low-income people. However, research has shown that moving from a high-poverty neighborhood to a low-poverty neighborhood (a "neighborhood of opportunity") can reduce stress, increase access to amenities, and lead to important health benefits.

Areas of poverty and concentrated poverty in the Portland region are shown in Figure 2 (page 14). Table 9 (page 15) shows the location of the region's regulated affordable housing in relation to these areas. Slightly more than half the region's affordable housing units are in poverty areas, where at least 20 percent of residents are poor. The region has few areas of concentrated poverty where more than 40 percent of residents are poor, however, and very few units are located in these areas.

<sup>&</sup>lt;sup>8</sup> Poverty areas are defined as census tracts where at least 20 percent of the residents are poor. Concentrated poverty areas are tracts where the percentage of residents in poverty is 40 percent or greater. (Economics and Statistics Administration, US Department of Commerce. 1995)

<sup>&</sup>lt;sup>9</sup> Office of Policy Development and Research, U.S. Department of Housing and Urban Development (Winter 2005). Understanding Neighborhood Effects of Concentrated Poverty. *Evidence Matters*. https://www.huduser.gov/portal/periodicals/em/winter11/highlight2.html



# FIGURE 2: 2015 CENSUS TRACTS IN POVERTY AND CONCENTRATED POVERTY (FOUR-COUNTY AREA)

#### TABLE 9: PERCENTAGE OF REGULATED AFFORDABLE HOUSING LOCATED IN AREAS OF POVERTY OR CONCENTRATED POVERTY

COUNTY/City	Number of regulated affordable housing sites	Located in poverty areas	Located in concentrated poverty areas
CLACKAMAS	290	9%	0%
Canby	8	33%	0%
Estacada	9	0%	0%
Gladstone	18	74%	0%
Lake Oswego	3	0%	0%
Milwaukie	35	0%	0%
Molalla	9	0%	0%
Oregon City	36	23%	0%
Sandy	18	0%	0%
West Linn	10	0%	0%
Wilsonville	14	0%	0%
Unincorporated	130	7%	0%
CLARK	156	45%	5%
Battle Ground	3	0%	0%
Camas	5	0%	0%
Ridgefield	3	0%	0%
Vancouver	97	56%	8%
Washougal	3	23%	0%
Unincorporated	45	27%	0%
MULTNOMAH	83	72%	10%
Fairview	3	71%	0%
Gresham	49	81%	13%
Portland	782	71%	11%
Troutdale	3	90%	0%
WASHINGTON	278	35%	6%
Banks	1	0%	0%
Beaverton	36	68%	0%
Cornelius	13	0%	0%
Durham	1	100%	0%
Forest Grove	35	70%	0%
Hillsboro	76	29%	17%
North Plains	1	0%	0%
Portland	2	51%	0%
Sherwood	8	0%	0%
Tigard	18	22%	0%
Tualatin	3	56%	0%
Unincorporated	84	12%	0%
Grand Total	1561	56%	8%

