

ORDINANCE NO. 21-1007

AN ORDINANCE OF THE CITY OF OREGON CITY ADOPTING AMENDMENTS TO OREGON CITY MUNICIPAL CODE; TITLE 13: PUBLIC SERVICES, TITLE 16: LAND DIVISIONS, AND TITLE 17: ZONING OF THE OREGON CITY MUNICIPAL CODE

WHEREAS, the City of Oregon City Public Works Department is implementing a number of projects which all require various changes to the City 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; and

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

WHEREAS, the proposed code revisions generally address the need for clarifications in technical development review and will provide greater certainty for developers and property owners; and

WHEREAS, as there are multiple chapters involved with this proposal, the larger package of amendments will be divided into a series of smaller amendments, which will each be considered independently through separate Ordinances at multiple City Commission Hearings. This approach will allow the City Commission and public the ability to review each package closely while moving efficiently through the review process; and

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

WHEREAS, hearing dates and future ordinance topics for the project will be provided in the City Commission- Commission Reports for Legislative File: GLUA 20:00033, LEG 20-00001 to allow the public to fully participate in the hearings process.

NOW, THEREFORE, OREGON CITY ORDAINS AS FOLLOWS:

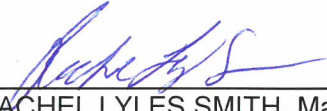
Section 1. The City hereby amends the portions of the existing Oregon City Municipal Code, Title 13: Public Services, Title 16: Land Divisions, and Title 17: Zoning Of The Oregon City Municipal Code; which are attached hereto as Exhibit 'A'.

Section 2. The Commission adopts the "Staff Report and Recommendation for Legislative File: LEG 20-0001.

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.

Read for the first time at a regular meeting of the City Commission held on the 7th day of April, and the City Commission finally enacted the foregoing Ordinance this 21st day of April 2021.




RACHEL LYLES SMITH, Mayor

Attested to this 21st day of April 2021,



Kattie Riggs, City Recorder

Approved as to legal sufficiency:



City Attorney

Attachments:

Exhibit A – Amended Sections of the Oregon City Municipal Code

Exhibit B – Staff Report

Oregon City Municipal Code

GLUA 20-33 (LEG 20-01)

Public Works

Code Amendments Package #2

Ordinance No. 21-1007 Package #2

OCMC 13.24/13.34 – Telecommunications Facilities

OCMC16.12 – Minimum Public Improvements

OCMC17.04 – Definitions

OCMC17.08 – Low Residential Districts*

OCMC17.10 – Medium Density Residential Districts*

OCMC17.12 – High-Density Residential Districts*

OCMC17.24 – NC Neighborhood Commercial District*

OCMC17.26 – HC Historic Commercial District*

OCMC17.29 – MUC Mixed-Use Corridor District*

OCMC17.31 – MUE – Mixed-Use Employment District*

OCMC17.32 – C General Commercial District*

OCMC17.34 – MUD Mixed-Use Downtown District*

OCMC17.35 – Willamette Falls Downtown Design District*

OCMC17.36 – GI General Industrial District*

OCMC17.37 – CI Campus Industrial District*

OCMC17.39 – I Institutional District*

OCMC17.62 – Site Plan and Design Review

*The only change to these zoning districts is to note that “Public utility easements may supersede the minimum setback”



Version: Clean Copy

Chapter 13.24 - TELECOMMUNICATIONS FACILITIES

13.24.010 - Scope of chapter.

Chapter 13.24 shall apply to telecommunications carriers, as defined below, with valid telecommunications franchises granted pursuant to this chapter prior to December 6, 2013. After December 6, 2013, all telecommunications carriers that do not have a valid franchise, or whose franchise expires, shall be subject to the provisions of Chapter 13.34 and the provisions of this chapter shall not apply to such telecommunications carriers.

(Ord. 99-1003 §1 (part), 1999)

(Ord. No. 13-1014, § 4, 11-6-2013)

Editor's note— Ord. No. 13-1014, § 4, adopted Nov. 6, 2013, deleted § 13.24.010 in its entirety and replaced it to read as herein set out. Former § 13.24.010 pertained to jurisdiction and management of the public rights-of-way.

13.24.020 - Regulatory fees and compensation not a tax.

A. The fees and costs provided for in this chapter, and any compensation charged or paid for use of the public rights-of-way provided for in this chapter, are separate from, and in addition to, any and all federal, state, local, and city charges as may be levied, imposed, or due from a telecommunications carrier, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of telecommunications services.

B. The city has determined that any fee provided for by this chapter is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees are not imposed on property or property owners, and these fees are not new or additional fees.

C. The fees and costs provided for in this chapter are subject to applicable federal and state laws.

(Ord. 99-1003 §1 (part), 1999)

13.24.030 - Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined herein shall be given the meaning set forth in the Communications Policy Act of 1934, as amended, the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996. If not defined there, the words shall be given their common and ordinary meaning.

"Aboveground facilities" means utility poles, utility facilities and telecommunications facilities above the surface of the ground, including the underground supports and foundations for such facilities.

"Affiliated interest" means (1) every corporation and person owning or holding directly or indirectly five percent or more of the voting securities of such telecommunications utility; (2) every corporation and person in any chain of successive ownership of five percent or more of voting securities of such telecommunications utility; (3) every corporation five percent or more of whose voting securities are owned by any person or corporation owning five percent or more of the voting securities of such telecommunications utility or by any person or corporation in any chain of successive ownership of five

percent or more of voting securities of such telecommunications utility; (4) every person who is an officer or director of such telecommunications utility or of any corporation in any chain of successive ownership of five percent or more of voting securities of such telecommunications utility; (5) every corporation which has two or more officers or two or more directors in common with such telecommunications utility; (6) every corporation and person, five percent or more of which is directly or indirectly owned by a telecommunications utility; (7) every corporation or person which the Public Utility Commission determines as a matter of fact, after investigation and hearing, actually is exercising any substantial influence over the policies and actions of such telecommunications utility, even though such influence is not based upon stockholdings, stockholders, directors or officers to the extent specified herein; and, (8) every person or corporation who or which the Public Utility Commission determines as a matter of fact, after investigation and hearing, actually is exercising such substantial influence over the policies and actions of such telecommunications utility in conjunction with one or more other corporations or persons with whom they are related by ownership or blood or by action in concert that together they are affiliated with such telecommunications utility within the meaning herein even though no one of them alone is so affiliated.

"Cable Act" means the Cable Communications Policy Act of 1984, 47 U.S.C. 521 et seq., as now and hereafter amended.

"Cable service" is to be defined consistent with federal laws and means the one-way transmission to subscribers of video programming, or other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"City" means the city of Oregon City, an Oregon municipal corporation, and individuals authorized to act on the city's behalf.

"City commission" means the elected governing body of the city of Oregon City, Oregon. "Control or controlling interest" means actual working control in whatever manner exercised.

"City property" means and includes all property owned by the city, other than public rights-of-way and public utility easements as those are defined herein, and all property held in a proprietary capacity by the city, which are not subject to right-of-way franchising as provided in this chapter.

"Conduit" means any structure, or portion thereof, containing one or more ducts, conduits, manholes, handholes, bolts, or other facilities used for any telegraph, telephone, cable television, electrical, or communications conductors, or cable right-of-way, owned or controlled, in whole or in part, by one or more public utilities.

"Construction" means any activity in the public rights-of-way resulting in physical change thereto, including excavation or placement of structures, but excluding routine maintenance or repair of existing facilities.

"Days" means calendar days unless otherwise specified.

"Duct" means a single enclosed raceway for conductors or cable.

"Easement" means the space in, upon, above, along, across, over or under a private property for constructing, reconstructing, operating, maintaining, inspecting, and repairing a facility owned by someone other than the private property owner whereby the easement is located.

"Emergency" shall have the meaning provided for in ORS 401.025.

"Federal Communications Commission or FCC" means the federal administrative agency, or its lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

"Franchise" means an agreement between the city and a grantee which grants a privilege to use public right-of-way and public utility easements within the city for a dedicated purpose and for specific compensation.

"Grantee" means the person to which a franchise is granted by the city.

"Gross revenue" means any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectible, derived from the operation of utility facilities in the City, subject to all applicable limitations in federal or state law.

"Oregon Public Utilities Commission or OPUC" means the statutorily created state agency in the state of Oregon responsible for licensing, regulation and administration of certain telecommunications carriers as set forth in Oregon law, or its lawful successor.

"Overhead or aboveground facilities" means utility poles, utility facilities and telecommunications facilities above the surface of the ground, including the underground supports and foundations for such facilities.

"Person" means an individual, corporation, company, association, joint stock company or association, firm, partnership, or limited liability company.

"Private telecommunications network" means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for resale, directly or indirectly. "Private telecommunications network" includes services provided by the state of Oregon pursuant to ORS 190.240 and 283.140.

"Public rights-of-way" means and includes, but is not limited to, streets, roads, highways, bridges, alleys, sidewalks, trails, paths, public easements, and all other public ways or areas, including the subsurface under and air space over these areas. This definition applies only to the extent of the city's right, title, interest or authority to grant a franchise to occupy and use such areas for telecommunications facilities. "Public rights-of-way" shall also include public utility easements as defined below.

"Public utility easement" means an easement that allows a utility the right to use and access specific areas of another's property for constructing and maintaining gas, electric, telecommunication, fiberoptic, water, and sewer lines.

"State" means the state of Oregon.

"Telecommunications Act" means the Communications Policy Act of 1934, as amended by subsequent enactments including the Telecommunications Act of 1996 (47 U.S.C. 151 et seq.) and as hereafter amended.

"Telecommunications carrier" means any provider of telecommunications services and includes every person that directly or indirectly owns, controls, operates or manages telecommunications facilities within the city.

"Telecommunications facilities" means the plant and equipment, other than customer premises equipment, used by a telecommunications carrier to provide telecommunications services.

"Telecommunications service" means any service provided for the purpose of transmission of information including, but not limited to, voice, video, or data, without regard to the transmission protocol employed and whether or not the transmission medium is owned by the provider itself.

Telecommunications service includes all forms of telephone services and voice, video, data or information transport, but does not include: (1) cable service; (2) open video system service, as defined in 47 C.F.R. 76; (3) private communications system services provided without using the public rights of way; (4) over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and (5) direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act; and (6) commercial mobile radio services as defined in 47 C.F.R. 20.

"Telecommunications system" means the plant and equipment, other than customer premises equipment, used by a telecommunications carrier to provide telecommunications services.

"Telecommunications utility" shall have the same meaning as ORS 759.005(1).

"Underground facilities" means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for "overhead facilities."

"Usable space" means all the space on a pole, except the portion below ground level, the twenty feet of safety clearance space above ground level, and the safety clearance space between communications and power circuits. There is a rebuttable presumption that six feet of a pole is buried below ground level.

"Utility facilities" means the plant, equipment and property, including but not limited to the poles, pipes, mains, conduits, ducts, cable, wires, plant and equipment located under, on, or above the surface of the ground within the public right-of-way of the city and used or to be used for the purpose of providing utility or telecommunications services. (Ord. 99-1003 §1 (part), 1999)

(Ord. No. 11-1009, §§ 1, 2, 9-7-2011)

13.24.040 - Registration of telecommunications carriers.

A. Purpose. The purpose of registration is:

1. To assure that all telecommunications carriers who have facilities and/or provide services within the city comply with the ordinances, rules and regulations of the city.
2. To provide the city with accurate and current information concerning the telecommunications carriers who offer to provide telecommunications services within the city, or that own or operate telecommunications facilities within the city.
3. To assist the city in the enforcement of this chapter and the collection of any city franchise fees or charges that may be due the city.

B. Registration Required. Except as provided in subsection D of this section, all telecommunications carriers having telecommunications facilities within the corporate limits of the city, and all telecommunications carriers that offer or provide telecommunications service to customer premises within the city, shall register. The appropriate application and license from: (a) the Oregon Public Utility Commission (PUC); or (b) the Federal Communications Commission (FCC) qualify as necessary registration information. Applicants also have the option of providing the following information:

1. The identity and legal status of the registrant, including the name, address, and telephone number of the duly authorized officer, agent, or employee responsible for the accuracy of the registration information.
 2. The name, address, and telephone number for the duly authorized officer, agent, or employee to be contacted in case of an emergency.
 3. A description of the registrant's existing or proposed telecommunications facilities within the city, a description of the telecommunications facilities that the registrant intends to construct, and a description of the telecommunications service that the registrant intends to offer or provide to persons, firms, businesses, or institutions within the city.
 4. Information sufficient to determine whether the transmission, origination or receipt of the telecommunications services provided, or to be provided, by the registrant constitutes an occupation or privilege subject to any business license requirements. A copy of the business license or the license number must be provided.
- C. Registration Fee. Each application for registration as a telecommunications carrier shall be accompanied by a nonrefundable registration fee in the amount of thirty-five dollars, or as otherwise established by resolution of the city commission.

D. Exceptions to Registration. The following telecommunications carriers are excepted from registration:

1. Telecommunications carriers that are owned and operated by the state or a political subdivision of this state exclusively for its own use.
2. A private telecommunications network, provided that such network does not occupy any public rights-of-way of the city. (Ord. 99-1003 §1 (part), 1999)

13.24.050 - Construction standards.

A. General. No person shall commence or continue with the construction, installation or operation of telecommunications facilities within a public right-of-way except as provided in this chapter and in compliance with all applicable codes, rules, and regulations.

B. Construction Codes. Telecommunications facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Code and the National Electrical Safety Code.

C. Construction Permits. No person shall construct or install any telecommunications facilities within a public right-of-way without first obtaining a construction permit, and paying the construction permit fee established pursuant to subsection G of this section. No permit shall be issued for the construction or installation of telecommunications facilities within a public right-of-way:

1. Unless the telecommunications carrier has first filed a registration statement with the city pursuant to Section 13.24.040(B) of this code; and if applicable,

2. Unless the telecommunications carrier has first applied for and been granted a franchise pursuant to Section 13.24.070 of this code.

D. Permit Applications. Applications for permits to construct telecommunications facilities shall be submitted on forms to be provided by the city and shall be accompanied by drawings, plans and specifications. The drawings, plans and specifications must:

1. Provide sufficient detail to demonstrate that the facilities will be constructed in accordance with all applicable codes, rules and regulations;

2. Demonstrate that the facilities will be constructed in accordance with the franchise agreement;

3. Provide the location and route of all facilities to be installed aboveground or on existing utility poles;

4. Provide the location and route of all new facilities to be installed underground on or in a public right-of-way, including the line and grade proposed for the burial at all points along the route that are within the public right-of-way. Existing facilities shall be distinguished from new construction;

5. Provide the location of all of the applicant's existing underground utilities, conduits, ducts, pipes, mains and installations that are within the public rights-of-way along the underground route proposed by the applicant. A cross section shall be provided showing new or existing facilities in relation to the street, curb, sidewalk or right-of-way; and

6. Provide a summary of the construction methods to be employed in performing the work and protecting existing structures, fixtures and facilities within or adjacent to the public right-of-way; including a description of any improvements that the applicant proposes to temporarily or permanently remove or relocate.

E. Applicant's Verification. All permit applications shall be accompanied by the verification of a registered professional engineer, or other qualified and duly authorized representative of the applicant, and the drawings, plans and specifications submitted with the application must comply with applicable technical codes, rules and regulations.

F. Construction Schedule. All permit applications shall be accompanied by a written construction schedule, which shall include a deadline for completion of construction. The construction schedule is subject to approval by the city.

G. Construction Permit Fee. Unless otherwise provided in a franchise agreement, prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount consistent with this chapter or as otherwise determined by resolution of the city commission. Such fee shall be designed to defray the costs of city administration of the requirements of this chapter.

H. Issuance of Permit. If satisfied that the applications, plans and documents submitted comply with all requirements of this chapter, the franchise agreement, and all applicable provisions of the city code or other law, the city shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as the city may deem necessary or appropriate.

I. Notice of Construction. Except in the case of an emergency, the permittee shall notify the city not less than two working days in advance of any excavation or construction in the public rights-of-way.

J. Compliance with Permit. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The city shall be provided access to the work site and such further information as it may require to ensure compliance with such requirements.

K. Noncomplying Work. Subject to the notice requirements in Section 13.24.060(C), all work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee.

L. Completion of Construction. The permittee shall promptly complete all construction activities so as to minimize disruption of the city rights-of-way and other public and private property. All construction work within city rights-of-way, including restoration, must be completed within one hundred twenty days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved pursuant to the schedule submitted and approved by the appropriate city official as contemplated by subsection F of this section.

M. As-Built Drawings. If requested by the city, the permittee shall furnish the city with two complete sets of plans drawn to scale and certified to the city as accurately depicting the location of all telecommunications facilities constructed pursuant to the permit. These plans shall be submitted to the city engineer or designee within sixty days after completion of construction, in a format mutually acceptable to the permittee and the city.

N. Restoration of Public Rights-of-Way and City Property:

1. When a permittee, or any person acting on its behalf, does any work in or affecting any public rights-of-way or city property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such ways or property to good order and condition unless otherwise directed by the city and as determined by the city engineer or designee.

2. If weather or other conditions do not permit the complete restoration required by this section, the permittee shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the permittee's sole expense and the permittee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule shall be subject to approval by the city.

3. If the permittee fails to restore rights-of-way or property to good order and condition, the city shall give the permittee written notice and provide the permittee a reasonable period of time not exceeding thirty days to restore the rights-of-way or property. If, after said notice, the permittee fails to restore the rights-of-way or property to as good a condition as existed before the work was undertaken, the city shall cause such restoration to be made at the expense of the permittee.

4. A permittee or other person acting in its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures that are required for the safety of all members of the

general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such rights-of-way or property.

O. Performance and Completion Bond. Unless otherwise provided in a franchise agreement, a performance bond or other form of surety acceptable to the city equal to at least one hundred percent of the estimated cost of constructing permittee's telecommunications facilities within the public rights-of-way of the city, shall be provided before construction is commenced.

1. The surety shall remain in force until sixty days after substantial completion of the work, as determined in writing by the city, including restoration of public rights-of-way and other property affected by the construction.

2. The surety shall guarantee, to the satisfaction of the city:

a. Timely completion of construction;

b. Construction in compliance with applicable plans, permits, technical codes and standards;

c. Proper location of the facilities as specified by the city;

d. Restoration of the public rights-of-way and other property affected by the construction; and

e. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.

(Ord. 99-1003 §1 (part), 1999)

13.24.060 - Location of telecommunications facilities.

A. Location of Facilities. All facilities located within the public rights-of-way shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a franchise agreement:

1. Whenever all existing electric utilities, cable facilities or telecommunications facilities are located underground within a public right-of-way of the city, a grantee with permission to occupy the same public right-of-way must also locate its telecommunications facilities underground.

2. Whenever all new or existing electric utilities, cable facilities or telecommunications facilities are located or relocated underground within a public right-of-way of the city, a grantee that currently occupies the same public right-of-way shall relocate its facilities underground concurrently with the other affected utilities to minimize disruption of the public right-of-way, absent extraordinary circumstances or undue hardship as determined by the city and consistent with applicable state and federal law.

B. Interference with the Public Rights-of-Way. No grantee may locate or maintain its telecommunications facilities so as to unreasonably interfere with the use of the public rights-of-way by

the city, by the general public or by other persons authorized to use or be present in or upon the public rights-of-way. All use of public rights-of-way shall be consistent with city codes, ordinances and regulations.

C. Relocation or Removal of Facilities. Except in the case of an emergency, within ninety days following written notice from the city, a grantee shall, at no expense to grantor, temporarily or permanently remove, relocate, change or alter the position of any telecommunications facilities within the public rights-of-way whenever the city shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

1. The construction, repairs, maintenance or installation of any city or other public improvement in or upon the public rights-of-way.
2. The operations of the city or other governmental entity in or upon the public rights-of-way.
3. The public interest.

D. Removal of Unauthorized Facilities. Within thirty days following written notice from the city, any grantee, telecommunications carrier, or other person that owns, controls or maintains any unauthorized telecommunications system, facility, or related appurtenances within the public rights-of-way of the city shall, at its own expense, remove such facilities or appurtenances from the public rights-of-way of the city. A telecommunications system or facility is unauthorized and subject to removal in the following instances:

1. One year after the expiration or termination of the grantee's telecommunications franchise.
2. Upon abandonment of a facility within the public rights-of-way of the city. A facility will be considered abandoned when it is deactivated, out of service, or not used for its intended and authorized purpose for a period of ninety days or longer. A facility will not be considered abandoned if it is temporarily out of service during performance of repairs or if the facility is being replaced.
3. If the system or facility was constructed or installed without the appropriate prior authority at the time of installation.
4. If the system or facility was constructed or installed at a location not permitted by the grantee's telecommunications franchise or other legally sufficient permit.

E. Coordination of Construction Activities. All grantees are required to make a good faith effort to cooperate with the city.

1. By January 1st of each year, grantees shall provide the city with a schedule of their proposed construction activities that may affect the public rights-of-way, including specifically any proposed construction activities in or around a public right-of-way.
2. If requested by the city, each grantee shall meet with the city annually or as determined by the city, to schedule and coordinate construction in the public rights-of-way. At that time, city will provide available information on plans for local, state, and/or federal construction projects.

3. All construction locations, activities and schedules shall be coordinated, as ordered by the city engineer or designee, to minimize public inconvenience, disruption or damages.

(Ord. 99-1003 §1 (part), 1999)

13.24.070 - Telecommunications franchise.

A. Telecommunications Franchise. A telecommunications franchise shall be required of any telecommunications carrier who desires to occupy public rights-of-way of the city.

B. Application. Any person that desires a telecommunications franchise must register as a telecommunications carrier and shall file with the city an application which includes the following information:

1. The identity of the applicant.

2. A description of the telecommunications services that are to be offered or provided by the applicant over its telecommunications facilities.

3. Engineering plans, specifications, and a network map in a form customarily used by the applicant of the facilities located or to be located within the public rights-of-way in the city, including the location and route requested for applicant's proposed telecommunications facilities.

4. The area or areas of the city the applicant desires to serve and a preliminary construction schedule for build-out to the entire franchise area.

5. Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services proposed.

6. An accurate map showing the location of any existing telecommunications facilities in the city that applicant intends to use or lease.

C. Application and review fee:

1. Subject to applicable state law, applicant shall reimburse the city for such reasonable costs as the city incurs in entering into the franchise agreement.

2. An application and review fee of two thousand dollars shall be deposited with the city as part of the application filed pursuant to subsection B of this section. Expenses exceeding the deposit will be billed to the applicant or the unused portion of the deposit will be returned to the applicant following the determination granting or denying the franchise.

D. Determination by the City. The city shall issue a written determination granting or denying the application in whole or in part. If the application is denied, the written determination shall include the reasons for denial.

E. Rights Granted. No franchise granted pursuant to this chapter shall convey any right, title or interest in the public rights-of-way, but shall be deemed a grant to use and occupy the public rights-of-way for the limited purposes and term stated in the franchise agreement.

F. Term of Grant. Unless otherwise specified in the franchise agreement, a telecommunications franchise granted hereunder shall be in effect for a term of five years.

G. Franchise Territory. Unless otherwise specified in a franchise agreement, a telecommunications franchise granted hereunder shall be limited to a specific geographic area of the city to be served by the franchise grantee, and the public rights-of-way necessary to serve such areas, and may include the entire city.

H. Franchise Fee. Each franchise granted by the city is subject to the city's right, which is expressly reserved, to fix a fair and reasonable compensation to be paid for the privileges granted; provided, nothing in this code shall prohibit the city and a grantee from agreeing to the compensation to be paid. The compensation shall be subject to the specific payment terms and conditions contained in the franchise agreement and applicable state and federal laws.

I. Amendment of Grant. Conditions for amending a franchise:

1. A new application and grant shall be required of any telecommunications carrier that desires to extend or locate its telecommunications facilities in public rights-of-way of the city which are not included in a franchise previously granted under this chapter.

2. If ordered by the city to locate or relocate its telecommunications facilities in public rights-of-way not included in a previously granted franchise, the city shall grant an amendment without further application.

3. A new application and grant shall be required of any telecommunications carrier that desires to provide a service which was not included in a franchise previously granted under this chapter.

J. Renewal Applications. A grantee that desires to renew its franchise under this chapter shall, not less than one hundred eighty days before expiration of the current agreement, file an application with the city for renewal of its franchise which shall include the following information:

1. The information required pursuant to subsection B of this section.

2. Any information required pursuant to the franchise agreement between the city and the grantee.

K. Renewal Determinations. Within ninety days after receiving a complete application, the city shall issue a written determination granting or denying the renewal application in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for non-renewal.

1. The financial and technical ability of the applicant.
2. The legal ability of the applicant.
3. The continuing capacity of the public rights-of-way to accommodate the applicant's existing and proposed facilities.
4. The applicant's compliance with the requirements of this chapter and the franchise agreement.
5. Applicable federal, state and local telecommunications laws, rules and policies.
6. Such other factors as may demonstrate that the continued grant to use the public rights-of-way will serve the community interest.

L. **Obligation to Cure as a Condition of Renewal.** No franchise shall be renewed until any ongoing violations or defaults in the grantee's performance of the agreement, or of the requirements of this chapter, have been cured, or a plan detailing the corrective action to be taken by the grantee has been approved by the city.

M. **Assignments or Transfers of System or Franchise.** Ownership or control of a majority interest in a telecommunications system or franchise may not, directly or indirectly, be transferred, assigned or disposed of by sale, lease, merger, consolidation or other act of the grantee, by operation of law or otherwise, without the prior consent of the city, which consent shall not be unreasonably withheld or delayed, and then only on such reasonable conditions as may be prescribed in such consent.

1. Grantee and the proposed assignee or transferee of the franchise or system shall agree, in writing, to assume and abide by all of the provisions of the franchise.
2. No transfer shall be approved unless the assignee or transferee has the legal, technical, financial and other requisite qualifications to own, hold and operate the telecommunications system pursuant to this chapter.
3. Unless otherwise provided in a franchise agreement, the grantee shall reimburse the city for all direct and indirect fees, costs, and expenses reasonably incurred by the city in considering a request to transfer or assign a telecommunications franchise.
4. Any transfer or assignment of a telecommunications franchise, system or integral part of a system without prior approval of the city under this code or pursuant to a franchise agreement shall be void and is cause for revocation of the franchise.

N. **Revocation or Termination of Franchise.** A franchise to use or occupy public rights-of-way of the city may be revoked for the following reasons:

1. Construction or operation in the city or in the public rights-of-way of the city without a construction permit.
2. Construction or operation at an unauthorized location.
3. Failure to comply with subsection M of this section with respect to sale, transfer or assignment of a telecommunications system or franchise.

4. Misrepresentation by or on behalf of a grantee in any application to the city.
5. Abandonment of telecommunications facilities in the public rights-of-way.
6. Failure to relocate or remove facilities as required in this chapter.
7. Failure to pay taxes, compensation, fees or costs when and as due the city under this chapter.
8. Insolvency or bankruptcy of the grantee.
9. Violation of material provisions of this chapter.
10. Violation of the material terms of a franchise agreement.

O. Notice and Duty to Cure. In the event that the city believes that grounds exist for revocation of a franchise, the city shall give the grantee written notice of the apparent violation or noncompliance,

providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the grantee a reasonable period of time, not exceeding thirty days, to furnish evidence that:

1. Corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance;
2. Rebutts the alleged violation or noncompliance; and/or
3. It would be in the public interest to impose some penalty or sanction less than revocation.

P. Public Hearing. In the event that a grantee fails to provide evidence reasonably satisfactory to the city of its compliance with the franchise or with this chapter, city staff shall refer the apparent violation or noncompliance to the city commission. The Commission shall provide the grantee with notice and a reasonable opportunity to be heard concerning the matter.

Q. Standards for Revocation or Lesser Sanctions. If persuaded that the grantee has violated or failed to comply with material provisions of this chapter, or of a franchise agreement, the city commission shall determine whether to revoke the franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent, and gravity of the violation as reflected by one or more of the following factors:

1. Whether the violation or failure to comply was egregious;
2. Whether substantial harm resulted from the violation or failure to comply;
3. Whether the violation or failure to comply was intentional;
4. Whether the grantee has violated or failed to comply with the provision(s) before;
5. Whether the violation or failure to comply was voluntarily disclosed, admitted or cured; and
6. The grantee's overall history of compliance.

R. Other City Costs. All grantees shall, within thirty days after written demand therefore, reimburse the city for all reasonable direct and indirect costs and expenses incurred by the city in connection with any modification, amendment, renewal or transfer of the franchise or any franchise agreement consistent with applicable state and federal laws.

(Ord. 99-1003 §1 (part), 1999)

13.24.080 - General franchise terms.

A. Facilities. Upon request, each grantee shall provide the city with an accurate map or maps certifying the location of all of its telecommunications facilities within the public rights-of-way. Each grantee shall provide updated maps annually.

B. Damage to Grantee's Facilities. Unless directly and proximately caused by wilful, intentional or malicious acts by the city, the city shall not be liable for any damage to or loss of any telecommunications facility within the public rights-of-way of the city as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work of any kind in the public rights-of-way by or on behalf of the city, or for any consequential losses resulting directly or indirectly therefrom.

C. Duty to Provide Information. Within ten business days of a written request from the city, each grantee shall furnish the city with information sufficient to demonstrate that the grantee has complied with all requirements of this chapter. All books, records, maps and other documents, maintained by the grantee with respect to its facilities within the public rights-of-way shall be made available for inspection by the city at reasonable times and intervals.

D. Service to the City. If the city contracts for the use of telecommunications facilities, telecommunications services, installation, or maintenance from the grantee, the grantee shall charge

the city the grantee's most favorable rate offered at the time of the request charged to similar users within Oregon for a similar volume of service, subject to any of grantee's tariffs or price lists on file with the OPUC. With the city's permission, the grantee may deduct the applicable charges from fee payments. Other terms and conditions of such services may be specified in a separate agreement between the city and grantee.

E. Compensation for City Property. If any right is granted, by lease, franchise or other manner, to use/or occupy city property for the installation of telecommunications facilities, the compensation to be paid for such right and use shall be fixed by the city.

F. Cable Franchise. Telecommunication carriers providing cable service shall be subject to the separate cable franchise requirements of the city and other applicable authority.

G. Leased Capacity. A grantee shall have the right, without prior city approval, to offer or provide capacity or bandwidth to its customers; provided that the grantee shall notify the city that such lease or agreement has been granted to a customer or lessee.

H. Grantee Insurance. Unless otherwise provided in franchise agreement, each grantee shall, as condition of the grant, secure and maintain the following liability insurance policies insuring both the grantee and the city, and its elected and appointed officers, officials, agents and employees as coinsured:

1. Comprehensive general liability insurance with limits not less than:
 - a. Three million dollars for bodily injury or death to each person;
 - b. Three million dollars for property damage resulting from any one accident; and,
 - c. Three million dollars for all other types of liability.
2. Automobile liability for owned, non-owned and hired vehicles with a limit of one million dollars for each person and three million dollars for each accident.
3. Worker's compensation within statutory limits and employer's liability insurance with limits of not less than one million dollars.
4. Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars.
5. The liability insurance policies required by this section shall be maintained by the grantee throughout the term of the telecommunications franchise, and such other period of time during which the grantee is operating without a franchise hereunder, or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall contain the following endorsement:

It is hereby understood that, at least ninety (90) days before this policy is canceled or an intention not to renew this policy is stated, the grantee and the insurer must provide written notice addressed to the city of such intent to cancel or not to renew.
6. Within sixty days after receipt by the city of said notice, and in no event later than thirty days prior to said cancellation, the grantee shall obtain and furnish to the city evidence that the grantee otherwise meets the requirements of this section.
7. As an alternative to the insurance requirements contained herein, a grantee may provide evidence of self-insurance subject to review and acceptance by the city.

I. General Indemnification. Each franchise agreement shall include, to the extent permitted by law, grantee's expressed undertaking to defend, indemnify and hold the city and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the grantee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its

telecommunications facilities, and in providing or offering telecommunications services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this chapter or by a franchise agreement made or entered into pursuant to this chapter.

J. Performance Surety. Before a franchise granted pursuant to this chapter is effective, and as necessary thereafter, the grantee shall provide a performance bond, in form and substance acceptable to the city, as security for the full and complete performance of a franchise granted under this chapter, including any costs, expenses, damages or loss the city pays or incurs because of any failure attributable to the grantee to comply with the codes, ordinances, rules, regulations or permits of the city. This obligation is in addition to the performance surety required for construction of facilities.

(Ord. 99-1003 §1 (part), 1999)

13.24.090 - General provisions.

A. Governing Law. Any franchise granted under this chapter is subject to the provisions of the Constitution and laws of the United States, and the state of Oregon and the ordinances and Charter of the city.

B. Written Agreement. No franchise shall be granted hereunder unless the agreement is in writing.

C. Nonexclusive Grant. No franchise granted under this chapter shall confer any exclusive right, privilege, license or franchise to occupy or use the public rights-of-way of the city for delivery of telecommunications services or any other purposes.

D. Severability and Preemption. If any article, section, subsection, sentence, clause, phrase, term, provision, condition, covenant or portion of this chapter is for any reason held to be invalid or unenforceable by any court of competent jurisdiction, or superseded by state or federal legislation, rules, regulations or decision, the remainder of the chapter shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, sentence, clause, phrase, provision, condition, covenant and portion of the chapter shall be valid and enforceable to the fullest extent permitted by law. In the event that federal or state laws, rules or regulations preempt a provision or limit the enforceability of a provision of the chapter, then the provision shall be read to be preempted to the extent and or the time required by law. In the event such federal or state law, rules or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision hereof that had been preempted is no longer preempted, such provision shall thereupon return to full force and effect, and shall thereafter be binding, without the requirement of further action on the part of the city, and any amendments hereto.

E. Penalties. Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this chapter shall be fined not less than one hundred dollars nor

more than one thousand dollars for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs. The enforcement of this provision shall be consistent with the provisions of this code regulating code enforcement.

F. Other Remedies. Nothing in this chapter shall be construed as limiting any judicial remedies that the city may have, at law or in equity, for enforcement of this chapter.

G. Captions. The captions to sections throughout this chapter are intended solely to facilitate reading and reference to the sections and provisions contained herein. Such captions shall not affect the meaning or interpretation of this chapter.

H. Compliance With Laws. Any grantee under this chapter shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all ordinances, resolutions, rules and regulations of the city heretofore or hereafter adopted or established during the entire term of any franchise granted under this chapter, which are relevant and relate to the construction, maintenance and operation of a telecommunications system.

I. Consent. Wherever the consent of either the city or of the grantee is specifically required by this chapter or in a franchise granted, such consent will not be unreasonably withheld.

J. Application to existing ordinance and agreements. To the extent that this chapter is not in conflict with and can be implemented with existing code and franchise agreements, this chapter shall apply to all existing ordinances and franchise agreements for use of the public rights-of-way for telecommunications.

K. Confidentiality. The city agrees to use its best efforts to preserve the confidentiality of information as requested by a grantee, to the extent permitted by the Oregon public records law.

L. Interest on late payments. If any fee or charge provided for under this chapter or in a franchise agreement shall not be timely paid, interest shall accrue on such fees at the rate of nine percent per annum, commencing the fifteenth day after payment was due. If such fee or charge is not paid within sixty days of the due date, an additional penalty in the amount of ten percent of such fee shall be assessed and due as of the date the underlying fee was due. Such penalty amount shall also bear interest at the rate provided for herein until paid.

(Ord. 02-1012, 2002: Ord. 99-1003 §1 (part), 1999)

Chapter 13.34 - UTILITY FACILITIES IN PUBLIC RIGHTS-OF-WAY

Sections :

13.34.010 - Title.

The ordinance codified in this chapter shall be known and may be referenced as the utility facilities in public rights-of-way ordinance.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.20 - Purpose and intent.

The purpose and intent of this chapter is to:

- A. Permit and manage reasonable access to the rights-of-way of the city for utility purposes and conserve the limited physical capacity of those rights-of-way held in trust by the city consistent with applicable state and federal law;
- B. Assure that the city's current and ongoing costs of granting and regulating access to and the use of the rights-of-way are fully compensated by the persons seeking such access and causing such costs;
- C. Secure fair and reasonable compensation to the city and its residents for permitting use of the rights-of-way;
- D. Assure that all utility companies, persons and other entities owning or operating facilities and/or providing services within the city register and comply with the ordinances, rules and regulations of the city;
- E. Assure that the city can continue to fairly and responsibly protect the public health, safety and welfare of its citizens;
- F. Encourage the provision of advanced and competitive utility services on the widest possible basis to businesses and residents of the city; and
- G. Comply with applicable provisions of state and federal law.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.030 - Jurisdiction and management of the public rights-of-way.

- A. The city has jurisdiction and exercises regulatory management over all rights-of-way within the city under authority of the city charter and state law.

B. The city has jurisdiction and exercises regulatory management over each right-of-way whether the city has a fee, easement, or other legal interest in the right-of-way, and whether the legal interest in the right-of-way was obtained by grant, dedication, prescription, reservation, condemnation, annexation, foreclosure or other means.

C. The exercise of jurisdiction and regulatory management of a right-of-way by the city is not official acceptance of the right-of-way, and does not obligate the city to maintain or repair any part of the right-of-way.

D. The provisions of this chapter are subject to and will be applied consistent with applicable state and federal laws, rules and regulations, and, to the extent possible, shall be interpreted to be consistent with such laws, rules and regulations.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.040 - Regulatory fees and compensation not a tax.

A. The fees and costs provided for in this chapter, and any compensation charged and paid for use of the rights-of-way provided for in this chapter, are separate from, and in addition to, any and all other federal, state, local, and city charges as may be levied, imposed, or due from a utility operator, its customers or subscribers, or on account of the lease, sale, delivery, or transmission of utility services.

B. The city has determined that any fee or tax provided for by this chapter is not subject to the property tax limitations of Article XI, Sections 11 and 11b of the Oregon Constitution. These fees or taxes are not imposed on property or property owners.

C. The fees and costs provided for in this chapter are subject to applicable federal and state laws.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.50 - Definitions.

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive.

"Cable service" is to be defined consistent with federal laws and means the one-way transmission to subscribers of: (i) video programming, or (ii) other programming service; and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

"City" means the city of Oregon City, an Oregon municipal corporation, and individuals authorized to act on the city's behalf.

"City commission" means the elected governing body of the city of Oregon City, Oregon.

"City facilities" means city- or publicly-owned structures or equipment located within the right-of-way or public easement used for governmental purposes.

"Communications services" means any service provided for the purpose of transmission of information, including, but not limited to, voice, video, or data, without regard to the transmission protocol employed, whether or not the transmission medium is owned by the provider itself. Communications service includes all forms of telephone services and voice, video, data or information transport, but does not include:

1. Cable service;
2. Open video system service, as defined in 47 C.F.R. 76;
3. Private communications system services provided without using the public rights-of-way;
4. Public communications systems;
5. Over-the-air radio or television broadcasting to the public-at-large from facilities licensed by the Federal Communications Commission or any successor thereto; and
6. Direct-to-home satellite service within the meaning of Section 602 of the Telecommunications Act.

"Easement" means the space in, upon, above, along, across, over or under a private property for constructing, reconstructing, operating, maintaining, inspecting, and repairing a facility owned by someone other than the private property owner whereby the easement is located.

"Gross revenue" means any and all revenue, of any kind, nature or form, without deduction for expense, less net uncollectible, derived from the operation of utility facilities in the City, subject to all applicable limitations in federal or state law.

"License" means the authorization granted by the city to a utility operator pursuant to this chapter.

"Person" means and includes any individual, firm, sole proprietorship, corporation, company, partnership, co-partnership, joint-stock company, trust, limited liability company, governmental entity, association or other organization, including any natural person or any other legal entity.

"Private communications system" means a system, including the construction, maintenance or operation of the system, for the provision of a service or any portion of a service which is owned or operated exclusively by a person for their use and not for sale or resale, including trade, barter or other exchange of value, directly or indirectly.

"Public communications system" means any system owned or operated by a government entity or entities for their exclusive use for internal communications or communications with other government

entities, and includes services provided by the state of Oregon pursuant to ORS 190.240 and 283.140. "Public communications system" does not include any system used for sale or resale, including trade, barter or other exchange of value, of communications services or capacity on the system, directly or indirectly, to any person.

"Public utility easement" means an easement that allows a utility the right to use and access specific areas of another's property for constructing and maintaining gas, electric, telecommunication, fiberoptic, water, and sewer lines.

"Public works director" means the public works director for the city of Oregon City or any designee.

"Right-of-way" means and includes, but is not limited to, the space in, upon, above, along, across, over or under the public streets, roads, highways, lanes, courts, ways, alleys, boulevards, bridges, trails, paths, sidewalks, bicycle lanes, public utility easements and all other public ways or areas, including the subsurface under and air space over these areas, but does not include parks, parkland, or other city

property not generally open to the public for travel. This definition applies only to the extent of the city's right, title, interest and authority to grant a license to occupy and use such areas for utility facilities.

"State" means the state of Oregon.

"Utility facility" or "facility" means any physical component of a system, including but not limited to the poles, pipes, mains, conduits, ducts, cables, wires, transmitters, plant, equipment and other facilities, located within, under or above the rights-of-way, any portion of which is used or designed to be used to deliver, transmit or otherwise provide utility service.

"Utility operator" or "operator" means any person who owns, places, operates or maintains a utility facility within the city.

"Utility service" means the provision, by means of utility facilities permanently located within, under or above the rights-of-way, whether or not such facilities are owned by the service provider, of electricity, natural gas, communications services, cable services, water, sewer, and/or storm sewer to or from customers within the corporate boundaries of the city, and/or the transmission of any of these services through the city whether or not customers within the city are served by those transmissions.

"Work" means the construction, demolition, installation, replacement, repair, maintenance or relocation of any utility facility, including but not limited to any excavation and restoration required in association with such construction, demolition, installation, replacement, repair, maintenance or relocation.

13.34.060 - Registration.

A. Registration Required. Every person that desires to provide utility services to customers within the city shall register with the city prior to providing any utility services to any customer in the city. Every person providing utility services to customers within the city as of the effective date of this chapter shall register within sixty days of the effective date of this chapter.

B. Annual Registration. After registering with the city pursuant to subsection A of this section, the registrant shall, by December 31 of each year, file with the city a new registration form if it intends to provide utility service at any time in the following calendar year. Registrants that file an initial registration pursuant to subsection A of this section on or after September 30 shall not be required to file an annual registration until December 31 of the following year.

C. Registration Application. The registration shall be on a form provided by the city, and shall be accompanied by any additional documents required by the city to identify the registrant and its legal status, describe the type of utility services provided or to be provided by the registrant and list the facilities over which the utility services will be provided.

D. Registration Fee. Each application for registration shall be accompanied by a nonrefundable registration fee in an amount to be determined by resolution of the city commission in an amount sufficient to fully recover all of the city's costs of administering the registration program.

E. Exception. A person with a valid franchise agreement or license from the city shall not be required to register to provide the utility services expressly permitted by the franchise agreement or license.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.070 - Right-of-way usage licenses.

A. License Required.

1. Except those utility operators with a valid franchise agreement from the city, every person shall obtain a license from the city prior to conducting any work in the rights-of-way.

2. Every person that owns or controls utility facilities in the rights-of-way as of the effective date of this chapter shall apply for a license from the city within sixty days of the later of: (1) the effective

date of this chapter, or (2) the expiration of a valid franchise from the city, unless a new franchise is granted by the city pursuant to subsection E of this section.

B. License Application. The license application shall be on a form provided by the city, and shall be accompanied by any additional documents required by the application to identify the applicant, its legal status, including its authorization to do business in Oregon, a description of the type of utility service provided or to be provided by the applicant, and the facilities over which the utility service will be provided, and other information reasonably necessary to determine the applicant's ability to comply with the terms of this chapter.

C. License Application Fee. The application shall be accompanied by a nonrefundable application fee or deposit set by resolution of the city commission in an amount sufficient to fully recover all of the city's costs related to processing the application for the license.

D. Determination by City. The city shall issue, within a reasonable period of time, a written determination granting or denying the license in whole or in part. If the license is denied, the written determination shall include the reasons for denial. The license shall be evaluated based upon the provisions of this chapter, the continuing capacity of the rights-of-way to accommodate the applicant's proposed utility facilities and the applicable federal, state and local laws, rules, regulations and policies.

E. Franchise Agreements. If the public interest warrants, as determined by the city, the city and utility operator may enter into a written franchise agreement that includes terms that clarify, enhance, expand, waive or vary the provisions of this chapter, consistent with applicable state and federal law. The franchise may conflict with the terms of this chapter with the review and approval of [the] city commission. The franchisee shall be subject to the provisions of this chapter to the extent such provisions are not in conflict with any such franchise.

F. Rights Granted.

1. The license granted hereunder shall authorize and permit the licensee, subject to the provisions of the city code and other applicable provisions of state or federal law, to construct, place, maintain and operate utility facilities in the rights-of-way for the term of the license.

2. Any license granted pursuant to this chapter shall not convey equitable or legal title in the rights- of-way, and may not be assigned or transferred except as permitted in subsection K of this section.

3. Neither the issuance of the license nor any provisions contained therein shall constitute a waiver or bar to the exercise of any governmental right or power, police power or regulatory power of the city as may exist at the time the license is issued or thereafter obtained.

G. Term. Subject to the termination provisions in subsection M of this section, the license granted pursuant to this chapter will remain in effect for a term of five years.

H. License Nonexclusive. No license granted pursuant to this section shall confer any exclusive right, privilege, license or franchise to occupy or use the rights-of-way for delivery of utility services or any other purpose. The city expressly reserves the right to grant licenses, franchises or other rights to other persons, as well as the city's right to use the rights-of-way, for similar or different purposes. The license is subject to all recorded deeds, easements, dedications, conditions, covenants, restrictions, encumbrances, and claims of title of record that may affect the rights-of-way. Nothing in the license shall be deemed to grant, convey, create, or vest in licensee a real property interest in land, including any fee, leasehold interest or easement.

I. Reservation of City Rights. Nothing in the license shall be construed to prevent the city from grading, paving, repairing and/or altering any rights-of-way, constructing, laying down, repairing, relocating or removing city facilities or establishing any other public work, utility or improvement of any kind, including repairs, replacement or removal of any city facilities. If any of licensee's utility facilities interfere with the construction, repair, replacement, alteration or removal of any rights-of-way, public

work, city utility, city improvement or city facility, except those providing utility services in competition with a licensee, licensee's facilities shall be removed or relocated as provided in subsections C, D

and E of Section 13.34.090, in a manner acceptable to the city and consistent with industry standard engineering and safety codes.

J. Multiple Services.

1. A utility operator that provides or transmits or allows the provision or transmission of utility services and other services over its facilities is subject to the license and right-of-way usage fee requirements of this chapter for the portion of the facilities and extent of utility services delivered over those facilities.

2. A utility operator that provides or transmits more than one utility service over its facilities is not required to obtain a separate license or franchise for each utility service, provided that it gives notice to the city of each utility service provided or transmitted and pays the applicable right-of-way usage fee for each utility service.

K. Transfer or Assignment. To the extent permitted by applicable state and federal laws, the licensee shall obtain the written consent of the city prior to the transfer or assignment of the license. The license shall not be transferred or assigned unless the proposed transferee or assignee is authorized under all applicable laws to own or operate the utility system and the transfer or assignment is approved by all agencies or organizations required or authorized under federal and state laws to approve such transfer or assignment. If a license is transferred or assigned, the transferee or assignee shall become responsible for all facilities of the licensee at the time of transfer or assignment. A transfer or assignment of a license does not extend the term of the license.

L. Renewal. At least ninety, but no more than one hundred eighty, days prior to the expiration of a license granted pursuant to this section, a licensee seeking renewal of its license shall submit a license application to the city, including all information required in subsection B of this section and the application fee required in subsection C of this section. The city shall review the application as required by subsection D of this section and grant or deny the license within ninety days of submission of the application. If the city determines that the licensee is in violation of the terms of this chapter at the time it submits its application, the city may require that the licensee cure the violation or submit a detailed plan to cure the violation within a reasonable period of time, as determined by the city, before the city will consider the application and/or grant the license. If the city requires the licensee to cure or submit a plan to cure a violation, the city will grant or deny the license application within ninety days of confirming that the violation has been cured or of accepting the licensee's plan to cure the violation.

M. Termination.

1. Revocation or Termination of a License. The city commission may terminate or revoke the license granted pursuant to this chapter for any of the following reasons:

- a. Material violation of any of the provisions of this chapter;
- b. Material violation of any provision of the license;

- c. Material misrepresentation in a license application;
 - d. Failure to pay related taxes, compensation, fees or costs due the city after final determination of the taxes, compensation, fees or costs;
 - e. Failure to restore the rights-of-way after construction as required by this chapter or other applicable state and local laws, ordinances, rules and regulations;
 - f. Failure to comply with technical, safety and engineering standards related to work in the rights-of-way; or
 - g. Failure to obtain or maintain any and all licenses, permits, certifications and other authorizations required by state or federal law for the placement, maintenance and/or operation of the utility facilities.
2. Standards for Revocation or Termination. In determining whether termination, revocation or some other sanction is appropriate, the following factors shall be considered:
- a. The egregiousness of the misconduct;
 - b. The harm that resulted;
 - c. Whether the violation was intentional;
 - d. The utility operator's history of compliance; and/or
 - e. The utility operator's cooperation in discovering, admitting and/or curing the violation.
3. Notice and Cure. The city shall give the utility operator written notice of any apparent violations before terminating a license. The notice shall include a short and concise statement of the nature and general facts of the violation or noncompliance and provide a reasonable time (no less than twenty and no more than forty days) for the utility operator to demonstrate that the utility operator has remained in compliance, that the utility operator has cured or is in the process of curing any violation or noncompliance, or that it would be in the public interest to impose a penalty or sanction less than termination or revocation. If the utility operator is in the process of curing a violation or noncompliance, the utility operator must demonstrate that it acted promptly and continues to actively work on compliance. If the utility operator does not respond or if the city manager or designee determines that the utility operator's response is inadequate, the city manager or designee shall refer the matter to the city commission, which shall provide a duly noticed public hearing to determine whether the license shall be terminated or revoked.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.080 - Construction and restoration.

A. Construction Codes. Utility facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations, including but not limited to the National Electrical Code and the National Electrical Safety Code and the city's pavement cut standards. When a utility operator, or any person acting on its behalf, does any work in or affecting the rights-of-way, the utility operator shall, at its own expense, promptly restore the rights-of-way as directed by the city consistent with applicable city codes, rules and regulations. A utility operator or other person acting on its behalf shall use suitable barricades, flags, flagging attendants, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting the rights-of-way or property.

B. Construction Permits.

1. No person shall perform any work on utility facilities within the rights-of-way without first obtaining all required permits. The city shall not issue a permit for the construction, installation, maintenance or repair of utility facilities unless the utility operator of the facilities has applied for and received the license required by this chapter, or has a current franchise with the city, and all applicable fees have been paid. No permit is required for service drops to customer premises or routine maintenance or repairs where such drops, repairs or maintenance do not require cutting, digging, or breaking of, or damage to, the right-of-way and do not result in closing or blocking any portion of the travel lane for vehicular traffic, bicycle lanes or sidewalks.

2. In the event of an emergency, a utility operator with a license pursuant to this chapter or its contractor may perform work on its utility facilities without first obtaining a permit from the city, provided that, to the extent reasonably feasible, it attempts to notify the city prior to commencing the emergency work and in any event applies for a permit from the city as soon as reasonably practicable, but not more than forty-eight hours after commencing the emergency work. As used in this subsection, "emergency" means a circumstance in which immediate repair to damaged or malfunctioning facilities is necessary to restore lost service or prevent immediate harm to persons or property.

3. Applications for permits to construct utility facilities shall be submitted upon forms to be provided by the city and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

a. That the facilities will be constructed in accordance with all applicable codes, rules and regulations.

b. The location and route of all utility facilities to be installed aboveground or on existing utility poles.

c. The location and route of all utility facilities on or in the rights-of-way to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route that are within the rights-of-way. Applicant's existing utility facilities shall be differentiated on the plans from new construction. The public works director may require additional information necessary to demonstrate that the proposed location can accommodate the utility facilities.

d. The construction methods to be employed for protection of existing structures, fixtures, and facilities within or adjacent to the rights-of-way, and description of any improvements that applicant proposes to temporarily or permanently remove or relocate.

4. All permit applications shall be accompanied by the verification of a professional engineer, or other qualified and duly authorized representative of the applicant, that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

5. All permit applications shall be accompanied by a written construction schedule, which shall include a deadline for completion of construction. The construction schedule is subject to approval by public works director.

6. Prior to issuance of a construction permit, the applicant shall pay a permit fee in an amount to be determined by resolution of the city commission.

7. If satisfied that the applications, plans and documents submitted comply with all requirements of this chapter, the public works director shall issue a permit authorizing construction of the utility facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as they may deem necessary or appropriate.

8. Except in the case of an emergency, the permittee shall notify the public works director not less than two working days in advance of any excavation or construction in the rights-of-way.

9. All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the utility facilities. The public works director and designated representatives shall be provided access to the work site and such further information as they may require to ensure compliance with such requirements.

10. All work which does not comply with the permit, the approved or corrected plans and specifications for the work, or the requirements of this chapter, shall be removed at the sole expense of the permittee. The city is authorized to stop work in order to assure compliance with the provision of this chapter. If the permittee fails to remove work as required in this subsection, the city may remove the work at the expense of the permittee, after notice and opportunity to cure.

11. The permittee shall promptly complete all construction activities so as to minimize disruption of the city rights-of-way and other public and private property. All construction work within the rights-of-way, including restoration, must be completed within sixty days of the date of issuance of the construction permit unless an extension or an alternate schedule has been approved by the appropriate city official.

C. Performance Surety.

1. The city may require a performance bond or other form of surety acceptable to the city equal to at least one hundred percent of the estimated cost of the work within the rights-of-way of the city be provided before construction is commenced.

2. In the event the performance bond or other form of surety acceptable to the city is required, it shall:

a. Remain in force until sixty days after substantial completion of the work, as determined in writing by the city, including restoration of rights-of-way and other property affected by the construction; and

b. The performance bond or other form of surety acceptable to the city shall guarantee, to the satisfaction of the city:

i. Timely completion of the work;

ii. That the work is performed in compliance with applicable plans, permits, technical codes and standards;

iii. Proper location of the facilities as specified by the city;

iv. Restoration of the rights-of-way and other property affected by the work; and

v. Timely payment and satisfaction of all claims, demands or liens for labor, material, or services provided in connection with the work.

D. Injury to Persons or Property. A utility operator shall preserve and protect from injury or damage other utility operators' facilities in the rights-of-way, the public using the rights-of-way and any adjoining property, and take other necessary measures to protect life and property, including but not limited to buildings, walls, fences, trees or facilities that may be subject to damage from the permitted work. A utility operator shall be responsible for all injury to persons or damage to public or private property resulting from its failure to properly protect people and property and to carry out the work.

E. Restoration.

1. When a utility operator, or any person acting on its behalf, does any work in or affecting any rights-of-way, it shall, at its own expense, promptly restore such ways or property to the same or better condition as existed before the work was undertaken, in accordance with applicable federal, state and local laws, codes, ordinances, rules and regulations, unless otherwise directed by the city and as determined by the public works director.

2. If weather or other conditions beyond the utility operator's control do not permit the complete restoration required by the city, the utility operator shall temporarily restore the affected rights-of-way or property. Such temporary restoration shall be at the utility operator's sole expense and the utility operator shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration. Any corresponding modification to the construction schedule may be subject to approval by the city.

3. If the utility operator fails to restore rights-of-way or property as required in this chapter, the city shall give the utility operator written notice and provide the utility operator a reasonable period of time not less than ten days, unless an emergency or threat to public safety is deemed to exist, and not exceeding thirty days, or such additional time agreed to in writing by the city, to restore the rights-of-way or property. If, after said notice, the utility operator fails to restore the rights-of-way or property as

required in this chapter, the city shall cause such restoration to be made at the expense of the utility operator.

F. Inspection. Every utility operator's facilities shall be subject to the right of periodic inspection by the city to determine compliance with the provisions of this chapter and all other applicable state and city codes, ordinances, rules and regulations. Every utility operator shall cooperate with the city in permitting the inspection of utility facilities upon request of the city. The utility operator shall perform all testing, or permit the city to perform any testing at the utility operator's expense, required by the city to determine that the installation of the utility operator's facilities and the restoration of the right-

of-way comply with the terms of this chapter and applicable state and city codes, ordinances, rules and regulations.

G. Coordination of Construction. All utility operators are required to make a good faith effort to both cooperate with and coordinate their construction schedules with those of the city and other users of the rights-of-way.

1. Prior to January 1 of each year, utility operators shall provide the city with a schedule of known proposed construction activities for that year in, around or that may affect the rights-of-way.

2. Utility operators shall meet with the city annually, or as determined by the city, to schedule and coordinate construction in the rights-of-way.

3. All construction locations, activities and schedules within the rights-of-way shall be coordinated as ordered by the public works director, to minimize public inconvenience, disruption, or damages.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.090 - Location of facilities.

A. Location of Facilities. Unless otherwise agreed to in writing by the city:

1. Utility facilities shall be installed underground in all areas of the city where there are no existing poles in the right-of-way or no space on existing poles in the right-of-way. This requirement shall not apply to pedestals, cabinets or other above-ground equipment of any utility operator. The city reserves the right to require written approval of the location of any such above-ground equipment in the right-of-way.

2. Whenever any existing electric utilities, cable facilities or communications facilities are located underground within a right-of-way of the city, the utility operator with permission to occupy the same right-of-way shall locate its facilities underground at its own expense. This requirement shall not apply to facilities used for transmission of electric energy at nominal voltages in excess of thirty-five thousand volts in areas where there are existing poles in the right-of-way, or to pedestals, cabinets or other

above-ground equipment of any utility operator. The city reserves the right to require written approval of the location of any such above-ground equipment in the right-of-way.

B. Interference with the Rights-of-Way. No utility operator or other person may locate or maintain its facilities so as to unreasonably interfere with the use of the rights-of-way by the city, by the general public or by other persons authorized to use or be present in or upon the rights-of-way. All use of the rights-of-way shall be consistent with city codes, ordinances, rules and regulations.

C. Relocation of Utility Facilities.

1. A utility operator shall, at no cost to the city, temporarily or permanently remove, relocate, change or alter the position of any utility facility within a right-of-way, including relocation of aerial facilities underground, when requested to do so in writing by the city.

2. Nothing herein shall be deemed to preclude the utility operator from requesting reimbursement or compensation from a third party, pursuant to applicable laws, regulations, tariffs or agreements, provided that the utility operator shall timely comply with the requirements of this section regardless of whether or not it has requested or received such reimbursement or compensation.

3. The city shall provide written notice of the time by which the utility operator must remove, relocate, change, alter or underground its facilities. If a utility operator fails to remove, relocate, alter or underground any utility facility as requested by the city and by the date reasonably established by the city, the utility operator shall pay all costs incurred by the city due to such failure, including but not limited to costs related to project delays, and the city may cause the

utility facility to be removed, relocated, altered or undergrounded at the utility operator's sole expense. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within thirty days.

D. Removal of Unauthorized Facilities.

1. Unless otherwise agreed to in writing by the public works director, within thirty days following written notice from the city or such other time agreed to in writing by the city, a utility operator and any other person that owns, controls, or maintains any abandoned or unauthorized utility facility within a right-of-way shall, at its own expense, remove the facility and restore the right-of-way.

2. A utility system or facility is unauthorized under any of the following circumstances:

a. The utility facility is outside the scope of authority granted by the city under the license, franchise or other written agreement. This includes facilities that were never licensed or franchised and facilities that were once licensed or franchised but for which the license or franchise has expired or been terminated. This does not include any facility for which the city has provided written authorization for abandonment in place.

b. The facility has been abandoned and the city has not provided written authorization for abandonment in place. A facility is abandoned if it is not in use and is not planned for further use. A facility will be presumed abandoned if it is not used for a period of twelve consecutive months. A utility operator may overcome this presumption by presenting plans for future use of the facility.

c. The utility facility is improperly constructed or installed or is in a location not permitted by the construction permit, license, franchise or this chapter.

d. The utility operator is in violation of a material provision of this chapter and fails to cure such violation within thirty days of the city sending written notice of such violation, unless the city extends such time period in writing.

E. Removal by City.

1. The city retains the right and privilege to cut or move the facilities of any utility operator or similar entity located within the rights-of-way of the city, without notice, as the city may determine to be necessary, appropriate or useful in response to a public health or safety emergency. The city will use qualified personnel or contractors consistent with applicable state and federal safety laws and regulations to the extent reasonably practicable without impeding the city's response to the emergency. The city will use best efforts to provide the utility operator with notice prior to cutting or moving facilities. If prior notice is not possible, the city will provide such notice as soon as reasonably practicable after taking such action.

2. If the utility operator fails to remove any facility when required to do so under this chapter, the city may, upon at least ten days' prior written notice, remove the facility using qualified personnel or contractors consistent with applicable state and federal safety laws and regulations and industry standards, and the utility operator shall be responsible for paying the full cost of the removal and any administrative costs incurred by the city in removing the facility and obtaining reimbursement. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within thirty days. The obligation to remove shall survive the termination of the license or franchise.

3. The city shall not be liable to any utility operator for any damage to utility facilities, or for any consequential losses resulting directly or indirectly therefrom, by the city or its contractor in removing, relocating or altering the facilities pursuant to subsections B, C or D of this section or undergrounding its facilities as required by subsection A of this section, or resulting from the utility operator's failure to remove, relocate, alter or underground its facilities as required by those subsections, unless such damage arises directly from the city's negligence or willful misconduct.

F. Engineering Record Drawings. The utility operator shall provide the city with two complete sets of record drawings in a form acceptable to the city upon completion of construction.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.100 - Leased capacity.

A utility operator may lease capacity on or in its systems to others, provided that, upon request, the utility operator provides the city with the name and business address of any lessee. A utility operator is not required to provide such information if applicable law or a valid agreement between the utility operator and the lessee expressly prohibits such disclosure.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.110 - Maintenance.

A. Every utility operator shall install and maintain all facilities in a manner that complies with applicable federal, state and local laws, rules, regulations and policies. The utility operator shall, at its own expense, repair and maintain facilities from time to time as may be necessary to accomplish this purpose.

B. If, after written notice from the city of the need for repair or maintenance to address a significant risk to life or property, a utility operator fails to repair and maintain facilities as requested by the city and by the date reasonably established by the city, the city may perform such repair or maintenance using qualified personnel or contractors at the utility operator's sole expense. Upon receipt of a detailed invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within thirty days.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.120 - Vacation.

If the city vacates any right-of-way, or portion thereof, that a utility operator uses, the utility operator shall, at its own expense, remove its facilities from the right-of-way unless the city reserves a public utility easement, which the city shall make a reasonable effort to do provided that there is no expense to the city, or the utility operator obtains an easement for its facilities. If the utility operator fails to remove its facilities within thirty days after a right-of-way is vacated, or as otherwise directed or agreed to in writing by the city, the city may remove the facilities at the utility operator's sole expense. Upon receipt of an invoice from the city, the utility operator shall reimburse the city for the costs the city incurred within thirty days.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.130 - Right-of-way usage fee.

A. Except as set forth in subsection B of this section, every person that owns utility facilities in the city and every person that uses utility facilities in the city to provide utility service, whether or not the person owns the utility facilities used to provide the utility services, shall pay the right-of-way usage fee for every utility service provided using the rights-of-way in the amount determined by resolution of the city commission.

B. A utility operator whose only facilities in the right-of-way are facilities mounted on structures within the right-of-way, which structures are owned by another person, and with no facilities strung between

such structures or otherwise within, under or above the right-of-way, shall pay the attachment fee set by commission resolution for each attachment, or such other fee set forth in the license granted by the city. Unless otherwise agreed to in writing by the city, the fee shall be paid annually, in arrears, for each year during the term of this license within thirty days after the end of each calendar year, and shall be accompanied by information sufficient to illustrate the calculation of the amount payable. The utility shall pay interest at the rate of nine percent per year for any payment made after the due date.

C. Right-of-way usage fee payments required by this section shall be reduced by any franchise fee payments received by the city, but in no case will be less than zero dollars.

D. Unless otherwise agreed to in writing by the city, the right-of-way usage fee set forth in subsection A of this section shall be paid quarterly, in arrears, for each quarter during the term of the license within thirty days after the end of each calendar quarter, and shall be accompanied by an accounting of gross revenues, if applicable, and a calculation of the amount payable. The utility shall pay interest at the rate of nine percent per year for any payment made after the due date.

E. The calculation of the right-of-way usage fee required by this section shall be subject to all applicable limitations imposed by federal or state law.

F. The city reserves the right to enact other fees and taxes applicable to the utility operators subject to this chapter. Unless expressly permitted by the city in enacting such fee or tax, or required by applicable state or federal law, no utility operator may deduct, offset or otherwise reduce or avoid the obligation to pay any lawfully enacted fees or taxes based on the payment of the right-of-way usage fee or any other fees required by this chapter.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.140 - Audits.

A. Within thirty days of a written request from the city, or as otherwise agreed to in writing by the city:

1. Every provider of utility service shall furnish the city with information sufficient to demonstrate that the provider is in compliance with all the requirements of this chapter and its franchise agreement, if any, including but not limited to payment of any applicable right-of-way usage fee or franchise fee.

2. Every utility operator shall make available for inspection by the city at reasonable times and intervals all maps, records, books, diagrams, plans and other documents, maintained by the utility operator with respect to its facilities within the rights-of-way or public utility easements. Access shall be provided within the city unless prior arrangement for access elsewhere has been made with the city.

B. If the city's audit of the books, records and other documents or information of the utility operator or utility service provider demonstrate that the utility operator or provider has underpaid the right-of-way usage fee or franchise fee by three percent or more in any one year, the utility operator shall reimburse the city for the cost of the audit, in addition to any interest owed pursuant to Section 13.34.130 or as specified in a franchise.

C. Any underpayment, including any interest or audit cost reimbursement, shall be paid within thirty days of the city's notice to the utility service provider of such underpayment.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.150 - Insurance and indemnification.

A. Insurance.

1. All utility operators shall maintain in full force and effect the following liability insurance policies that protect the utility operator and the city, as well as the city's officers, agents, and employees:

a. Comprehensive general liability insurance with limits not less than:

i. Three million dollars for bodily injury or death to each person;

ii. Three million dollars for property damage resulting from any one accident; and

iii. Three million dollars for all other types of liability.

b. Motor vehicle liability insurance for owned, non-owned and hired vehicles with a limit of one million dollars for each person and three million dollars for each accident.

c. Worker's compensation within statutory limits and employer's liability with limits of not less than one million dollars.

d. If not otherwise included in the policies required by subsection A.1.a. above, maintain comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products completed hazard with limits of not less than three million dollars.

e. Utility operator may utilize primary and umbrella liability insurance policies to satisfy the preceding insurance policy limit requirements.

2. The limits of the insurance shall be subject to statutory changes as to maximum limits of liability imposed on municipalities of the state of Oregon. The insurance shall be without prejudice to coverage otherwise existing and shall name, or the certificate of insurance shall name, with the exception of worker's compensation, as additional insureds the city and its officers, agents, and employees. The coverage must apply as to claims between insureds on the policy. The policy shall provide that the insurance shall not be canceled or no longer comply with this section, without thirty days prior written notice first being given to the city. If the insurance is canceled or materially altered, the utility operator shall obtain a replacement policy that complies with the terms of this section and provide the city with a replacement certificate of insurance. The utility operator shall maintain continuous uninterrupted coverage, in the terms and amounts required. The utility operator may self insure, or keep in force a self-insured retention plus insurance, for any or all of the above coverage.

3. The utility operator shall maintain on file with the city a certificate of insurance, or proof of self-insurance acceptable to the city, certifying the coverage required above.

B. Financial Assurance. Unless otherwise agreed to in writing by the city, before a franchise granted or license issued pursuant to this chapter is effective, and as necessary thereafter, the utility operator shall provide a performance bond or other financial security, in a form acceptable to the city, as security for the full and complete performance of the franchise or license, if applicable, and compliance with the terms of this chapter, including any costs, expenses, damages or loss the city pays or incurs because of any failure attributable to the utility operator to comply with the codes, ordinances, rules, regulations or permits of the city. This obligation is in addition to the performance surety required by subsection C of Section 13.34.080.

C. Indemnification.

1. Each utility operator shall defend, indemnify and hold the city and its officers, employees, agents and representatives harmless from and against any and all liability, causes of action, claims, damages, losses, judgments and other costs and expenses, including attorney fees and costs of suit or defense (at both the trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity in any way arising out of, resulting from, during or in connection with, or alleged to arise out of or result from the negligent, careless, or wrongful acts, omissions, failure to act, or other misconduct of the utility operator or its affiliates, officers, employees, agents, contractors, subcontractors, or lessees in the construction, operation, maintenance, repair, or removal of its facilities, and in providing or offering utility services over the facilities, whether such acts or omissions are authorized, allowed, or prohibited by this chapter or by a franchise agreement, unless the utility operator's

failure arises directly from the city's negligence or willful misconduct. The acceptance of a license under Section 13.34.070 shall constitute such an agreement by the applicant whether the same is expressed or not. Upon notification of any such claim the city shall notify the utility operator and provide the utility operator with an opportunity to provide defense regarding any such claim.

2. Every utility operator shall also indemnify the city for any damages, claims, additional costs or expenses assessed against or payable by the city arising out of or resulting, directly or indirectly, from the utility operator's failure to remove or relocate any of its facilities in the rights-of-way or easements in a timely manner, unless the utility operator's failure arises directly from the city's negligence or willful misconduct.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.160 - Compliance.

Every utility operator shall comply with all federal and state laws and regulations, including regulations of any administrative agency thereof, as well as all applicable ordinances, resolutions, rules and regulations of the city, heretofore or hereafter adopted or established during the entire term of any license granted under this chapter.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.170 - Confidential/proprietary information.

If any person is required by this chapter to provide books, records, maps or information to the city that the person reasonably believes to be confidential or proprietary, the city shall take reasonable steps to protect the confidential or proprietary nature of the books, records or information, to the extent permitted by Oregon public records laws, provided that all documents are clearly marked as confidential by the person at the time of disclosure to the city. The city shall not be required to incur any costs to protect such document, other than the city's routine internal procedures for complying with the Oregon public records law.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.180 - Penalties.

A. Any person found guilty of violating any of the provisions of this chapter or the license shall be subject to a penalty of not less than one hundred dollars nor more than one thousand dollars for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.

B. Nothing in this chapter shall be construed as limiting any judicial or other remedies the city may have at law or in equity, for enforcement of this chapter.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.190 - Severability and preemption.

A. The provisions of this chapter shall be interpreted to be consistent with applicable federal and state law, and shall be interpreted, to the extent possible, to cover only matters not preempted by federal or state law.

B. If any article, section, subsection, sentence, clause, phrase, term, provision, condition or portion of this chapter is for any reason declared or held to be invalid or unenforceable by any court of competent jurisdiction or superseded by state or federal legislation, rules, regulations or decision, the remainder of this chapter shall not be affected thereby but shall be deemed as a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof, and each remaining section, subsection, clause, phrase, term, provision, condition, covenant and portion of this chapter shall be valid and enforceable to the fullest extent permitted by law. In the event any provision is preempted by federal or state laws, rules or regulations, the provision shall be preempted only to the extent required by law and any portion not preempted shall survive. If any federal or state law resulting in preemption is later repealed, rescinded, amended or otherwise changed to end the preemption, such provision shall thereupon return to full force and effect and shall thereafter be binding without further action by the city.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

13.34.200 - Application to existing agreements.

To the extent that this chapter is not in conflict with and can be implemented consistent with existing franchise agreements, this chapter shall apply to all existing franchise agreements granted to utility operators by the city.

(Ord. No. 13-1014, § 1(Exh. A), 11-6-2013)

Oregon City Municipal Code

Chapter 16.12 Minimum Public Improvements and Design Standards for Development

16.12.008 Definitions.

Whenever the words or terms and their derivatives are used in this chapter, they shall have the meaning herein ascribed to them as described in OCMC 17.04, unless the context dictates application of a different meaning.

16.12.10 - Purpose and general provisions.

The purpose of this chapter is to identify the standards for development in and adjacent to spaces which benefit the public including right-of-way, access to the right-of-way, public off-street pedestrian and bicycle accessways, and easements. All development shall be in conformance with the policies and design standards established by this chapter and with applicable standards in the City's public facility master plans and City design standards and specifications. In reviewing applications for development, the City Engineer shall take into consideration any approved development and the remaining development potential of adjacent properties. All street, water, sanitary sewer, storm drainage and utility plans associated with any development shall be reviewed and approved by the City Engineer prior to construction. All streets, driveways or storm drainage connections to another jurisdiction's facility or right-of-way shall be reviewed by the appropriate jurisdiction as a condition of the preliminary plat and when required by law or intergovernmental agreement shall be approved by the appropriate jurisdiction.

16.12.11 - Applicability.

- A. Compliance with this chapter is required for all development including land divisions, site plan and design review, master plan, detailed development plan and conditional use applications and all public improvements that are required in conjunction with a land use decision.
- B. Compliance with this chapter is also required for new construction or additions which exceed fifty percent of the existing square footage of all 3-4 plexes, single and two-family dwellings living space. Garages, carports, sheds, and porches may not be included in the calculation if these spaces are not living spaces. Accessory dwelling units are not subject to compliance with this chapter. All applicable 3-4 plexes, single and two family dwellings shall provide any necessary dedications, easements or agreements as identified in the transportation system plan and this chapter, subject to constitutional limitations. In addition, the street frontage shall be improved to include the following priorities for improvements:
 - 1. Improve street pavement, construct curbs, gutters, sidewalks and planter strips; and
 - 2. Plant street trees.

The cost of compliance with the standards identified in 16.12.011.B.1 and 16.12.011.B.2 is calculated based on the square footage valuation from the State of Oregon Building Codes Division

and limited to ten percent of the total construction costs. The value of the alterations and improvements is based on the total construction costs for a complete project rather than costs of various project component parts subject to individual building permits. The entire proposed construction project cost includes engineering and consulting fees and construction costs. It does not include permit fees, recording fees, or any work associated with drafting or recording dedications or easements.

- C. Exemptions. The following are exempt from review by this chapter unless public improvements, driveways, PUEs, or other items regulated by this chapter are proposed.
1. Minor Site Plan and Design Review applications
 2. Work within the right-of-way
 3. Lot Line Adjustments and Abandonments
 4. Public capital improvement projects

16.12.12 - Jurisdiction and management of the public rights-of-way.

The City has jurisdiction and exercises regulatory management over all public rights-of-way as defined and outlined within 12.04 of the Oregon City Municipal Code.

16.12.13 - Modifications.

The applicant may request and the review body may consider modification of the standards in this chapter resulting from constitutional limitations restricting the City's ability to require the dedication of property or for any other reason, based upon the criteria listed below and other criteria identified in the standard to be modified. All modifications, except for adjustments approved by the City Engineer for tree preservation purposes pursuant to 16.12.013.A, shall be processed through a Type II Land Use application and may require additional evidence from a transportation engineer or others to verify compliance.

- A . Compliance with the following criteria is required:
1. The modification meets the intent of the standard;
 2. The modification provides safe and efficient movement of pedestrians, motor vehicles, bicyclists and freight;
 3. The modification is consistent with an adopted transportation or utility plan; and
 4. The modification is complementary with a surrounding street design; or, in the alternative;
 5. If a modification is requested for constitutional reasons, the applicant shall demonstrate the constitutional provision or provisions to be avoided by the modification and propose a modification that complies with the state or federal constitution. The City shall be under no obligation to grant a modification in excess of that which is necessary to meet its constitutional obligations.
- B. The following modifications shall be processed as a Type I modification by the City Engineer using the criteria in 16.12.13.A.
1. Modifications to driveway location, size, and sharing standards in 16.12.035
 2. Modifications to sidewalk and planter strips widths and location in 16.12.016 that preserve existing street trees or trees on private property to ensure compliance with ADA standards

16.12.14 - Administrative provisions.

An applicant shall submit the following items to the City and complete the following tasks prior to proceeding with construction of proposed development plans. These items include the following:

- A. Pre-Design Meeting;
- B. Final Engineering Plans, Stamped and Signed by an Oregon Licensed Professional Engineer;
- C. Stormwater Report, Stamped and Signed by an Oregon Licensed Professional Engineer;

- D. Geotechnical Report, Stamped and Signed by an Oregon Licensed Professional Engineer (if applicable);
- E. Engineer's Preliminary and Final Cost Estimates (also may be known as engineer's opinion of probable construction cost);
- F. Plan Check and Inspection Fees (as set by City resolution);
- G. Certificate of Liability Insurance for City funded public projects contracted by the City (not less than one million dollars single incident and two million dollars aggregate);
- H. Preconstruction Meeting Notes;
- I. Financial Guarantee(s) per OCMC 17.50.140;
- J. Applicable Approvals/Permits from other agencies or entities;
- K. Developer/Engineer Agreement for public works improvements.

An applicant shall submit the following additional items to the City and complete the following tasks prior to completing construction of proposed development plans. These items include the following:

- L. Project Engineer's Certificate of Completion;
- M. Stormwater Operation and Maintenance Easement (if applicable);
- N. Deed of Dedication (Bargain and Sale Deed);
- O. Recorded Plat and/or Easements (if applicable);
- P. Recorded Non-Remonstrance Covenant Agreement;
- Q. Land Division Compliance Agreement (if applicable);
- R. Permanent Stabilization and/or Restoration of the impact from the development;
- S. Fulfillment of all Conditions of Approval;
- T. Payment of all Outstanding Fees;
- U. Maintenance Guarantee(s). per OCMC 17.50.141;
- V. Indemnity Agreement (if applicable);
- W. Completed Punchlist;
- X. As-Built Drawings;

Details on individual items required by this subsection can be obtained by contacting Public Works. Many items, such as the engineer's cost estimate and plan check and inspection fee, may be submitted in conjunction with documentation for other infrastructure improvements that are done with the development (such as street, sanitary sewer, and water).

16.12.15 - Street design—Generally.

Development shall be required to provide existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements where applicable. Development shall provide any necessary dedications, easements or agreements as identified in the Transportation System Plan, Trails Master Plan, and/or Parks and Recreation Master Plan and this chapter, subject to constitutional limitations. The location, width and grade of street shall be considered in relation to: existing and planned streets, topographical conditions, public convenience and safety for all modes of travel, existing and identified future transit routes and pedestrian/bicycle accessways, overlay districts, and the proposed use of land to be served by the streets. The street system shall assure an adequate traffic circulation system with intersection angles, grades, tangents and curves appropriate for the traffic to be carried considering the terrain. To the extent possible, proposed streets shall connect to all existing or approved stub streets that abut the development site. The arrangement of streets shall either:

- A. Provide for the continuation or appropriate projection of existing principal streets in the surrounding area and on adjacent parcels or conform to a plan for the area approved or adopted

by the City to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical;

- B. Where necessary to give access to or permit a satisfactory future development of adjoining land, streets shall be extended to the boundary of the development and the resulting dead-end street (stub) may be approved with a temporary turnaround as approved by the City Engineer. 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. Access control in accordance with OCMC 16.12.017 shall be required to preserve the objectives of street extensions.
- C. 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 System Plan. 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.

16.12.16 - Street design.

All development regulated by this chapter shall provide street improvements in compliance with the standards in Table 16.12.016 depending on the street classification set forth in the Transportation System Plan and the Comprehensive Plan designation of the adjacent property, unless an alternative plan has been adopted. The table implements the adopted Transportation System Plan and illustrates the maximum design standards. These standards may be reduced with an alternative street design which may be approved based on the modification criteria in OCMC 16.12.013. The steps for reducing the street design are found in the Transportation System Plan.

Table 16.12.016 Street Design

Table 16.12.016 Street Design. To read the table, select the road classification as identified in the Transportation System Plan and the Comprehensive Plan designation of the adjacent properties to find the maximum design standards for the road cross section. If the Comprehensive Plan designation for lands on either side of the street differs, the wider right-of-way standard shall apply.

| Road Classification | Comprehensive Plan Designation | Right-of-Way Width | Pavement Width | Public Access | Sidewalk | Landscape Strip | Bike Lane | Street Parking | Travel Lanes | Median |
|---------------------|--|--------------------|----------------|---------------|--|-----------------|-----------|----------------|------------------|--------|
| Major Arterial | Mixed Use, Commercial or Public/Quasi Public | 116 ft. | 94 ft. | 0.5 ft. | 10.5 ft. sidewalk including 5 ft. x 5 ft. tree wells | | 6 ft. | 8 ft. | (5) 12 ft. Lanes | 6 ft. |
| | Industrial | 120 ft. | 88 ft. | 0.5 ft. | 5 ft. | 10.5 ft. | 6 ft. | N/A | (5) 14 ft. Lanes | 6 ft. |
| | Residential | 126 ft. | 94 ft. | 0.5 ft. | 5 ft. | 10.5 ft. | 6 ft. | 8 ft. | (5) 12 ft. Lanes | 6 ft. |

| Road Classification | Comprehensive Plan Designation | Right-of-Way Width | Pavement Width | Public Access | Sidewalk | Landscape Strip | Bike Lane | Street Parking | Travel Lanes | Median |
|---------------------|--|--------------------|----------------|---------------|--|-----------------|-----------|----------------|------------------|--------|
| Minor Arterial | Mixed Use, Commercial or Public/Quasi Public | 116 ft. | 94 ft. | 0.5 ft. | 10.5 ft. sidewalk including 5 ft. x 5 ft. tree wells | | 6 ft. | 8 ft. | (5) 12 ft. Lanes | 6 ft. |
| | Industrial | 118 ft. | 86 ft. | 0.5 ft. | 5 ft. | 10.5 ft. | 6 ft. | 7 ft. | (5) 12 ft. Lanes | N/A |
| | Residential | 100 ft. | 68 ft. | 0.5 ft. | 5 ft. | 10.5 ft. | 6 ft. | 7 ft. | (3) 12 ft. Lanes | 6 ft. |

| Road Classification | Comprehensive Plan Designation | Right-of-Way Width | Pavement Width | Public Access | Sidewalk | Landscape Strip | Bike Lane | Street Parking | Travel Lanes | Median |
|---------------------|--|--------------------|----------------|---------------|--|-----------------|-----------|----------------|------------------|--------|
| Collector | Mixed Use, Commercial or Public/Quasi Public | 86 ft. | 64 ft. | 0.5 ft. | 10.5 ft. sidewalk including 5 ft. x 5 ft. tree wells | | 6 ft. | 8 ft. | (3) 12 ft. Lanes | N/A |
| | Industrial | 88 ft. | 62 ft. | 0.5 ft. | 5 ft. | 7.5 ft. | 6 ft. | 7 ft. | (3) 12 ft. Lanes | N/A |
| | Residential | 85 ft. | 59 ft. | 0.5 ft. | 5 ft. | 7.5 ft. | 6 ft. | 7 ft. | (3) 11 ft. Lanes | N/A |

| Road Classification | Comprehensive Plan Designation | Right-of-Way Width | Pavement Width | Public Access | Sidewalk | Landscape Strip | Bike Lane | Street Parking | Travel Lanes | Median |
|---------------------|--|--------------------|----------------|---------------|--|-----------------|-------------------------|----------------|------------------|--------|
| Local | Mixed Use, Commercial or Public/Quasi Public | 62 ft. | 40 ft. | 0.5 ft. | 10.5 ft. sidewalk including 5 ft. x 5 ft. tree wells | | N/A | 8 ft. | (2) 12 ft. Lanes | N/A |
| | Industrial | 60 ft. | 38 ft. | 0.5 ft. | 5 ft. | 5.5 ft. | (2) 19 ft. Shared Space | | | N/A |
| | Residential | 54 ft. | 32 ft. | 0.5 ft. | 5 ft. | 5.5 ft. | (2) 16 ft. Shared Space | | | N/A |

1. Pavement width includes, bike lane, street parking, travel lanes and median.
2. Public access, sidewalks, landscape strips, bike lanes and on-street parking are required on both sides of the street in all designations. The right-of-way width and pavement widths identified above include the total street section.
3. A 0.5 foot curb is included in landscape strip or sidewalk width.

4. Travel lanes may be through lanes or turn lanes.
5. The 0.5 foot public access provides access to adjacent public improvements.
6. Alleys shall have a minimum right-of-way width of twenty feet and a minimum pavement width of sixteen feet. If alleys are provided, garage access shall be provided from the alley.
7. A raised concrete median or landscape median shall be utilized for roads identified to have access restrictions.
8. A public utility easement (PUE) shall be provided on both sides of the right-of-way or public access easement on private property as identified in 16.12.85.
 - A. Sidewalks. The applicant shall provide for sidewalks on both sides of all public streets, on any private street if so required by the decision-maker, and in any special pedestrian way within the development. Both sidewalks and curbs are to be constructed to City standards and at widths set forth above, and according to plans and specifications provided by the City Engineer. Exceptions to this requirement may be allowed in order to accommodate topography, trees or some similar site constraint. In the case of major or minor arterials, the decision-maker may approve a development without sidewalks where sidewalks are found to be dangerous or otherwise impractical to construct or are not reasonably related to the applicant's development. The decision-maker may require the applicant to provide sidewalks concurrent with the issuance of the initial building permit within the area that is the subject of the development application. Applicants for partitions may be allowed to meet this requirement by providing the City with a financial guarantee per OCMC 16.12.110.
 - B. Pedestrian and Bicycle Accessways Routes. If deemed appropriate to extend pedestrian and bicycle routes, existing or planned, the decision-maker may require the installation of separate pedestrian and bicycle facilities.
 - C. Street Name Signs and Traffic Control Devices. The applicant shall install street signs and traffic control devices as directed by the City Engineer. Street name signs and traffic control devices shall be in conformance with all applicable City regulations and standards.
 - D. Street Lights. The applicant shall install street lights which shall be served from an underground source of supply. Street lights shall be in conformance with all City regulations.
 - E. Any new street proposed with a pavement width of less than thirty-two feet shall be processed through OCMC 16.12.013 and meet minimum life safety requirements, which may include fire suppression devices as determined by the Fire Marshall to assure an adequate level of fire and life safety. The modified street shall have no less than a twenty-foot wide unobstructed travel lane.
 - F. All development shall include vegetated planter strips that are five feet in width or larger and located between the sidewalk and curb unless otherwise approved pursuant to this chapter. All development shall utilize the vegetated planter strip for the placement of street trees or place street trees in other acceptable locations, as prescribed by OCMC 12.08. Development proposed along a collector, minor arterial, or major arterial roads may place street trees within tree wells within a wider sidewalk in lieu of a planter strip. In addition to street trees per OCMC 12.08, vegetated planter strips shall include ground cover and/or shrubs spaced four feet apart and appropriate for the location. No invasive or nuisance plant species shall be permitted.
 - G. Vehicle and pedestrian access easements may serve in lieu of streets when approved by the decision maker and only where dedication of a street is deemed impracticable.
 - H. Vehicular and pedestrian easements shall allow for public access and shall comply with all applicable pedestrian access requirements.

16.12.17 - Street design—Access control.

- A. A street which is dedicated to end at the boundary of the development or in the case of half-streets dedicated along a boundary shall have an access control granted to the City as a City controlled plat restriction for the purposes of controlling ingress and egress to the property adjacent to the end of the dedicated street. The access control restriction shall exist until such time as a public street is created, by dedication and accepted, extending the street to the adjacent property.
- B. The City may grant a permit for the adjoining owner to access through the access control.
- C. The plat shall contain the following access control language or similar on the face of the map at the end of each street for which access control is required: "Access Control (See plat restrictions)."
- D. Said plats shall also contain the following plat restriction note(s): "Access to (name of street or tract) from adjoining tracts (name of deed document number[s]) shall be controlled by the City of Oregon City by the recording of this plat, as shown. These access controls shall be automatically terminated upon the acceptance of a public road dedication or the recording of a plat extending the street to adjacent property that would access through those Access Controls."

16.12.18 - Street design—Alignment.

The centerline of streets shall be:

- A. Aligned with existing streets by continuation of the centerlines; or
- B. Offset from the centerline by no more than five feet, provided appropriate mitigation, in the judgment of the City Engineer, is provided to ensure that the offset intersection will not pose a safety hazard.
- C. Driveways that are at least twenty-four feet wide shall align with existing or planned streets on adjacent sites.

16.12.19 - Traffic sight obstructions.

All new streets shall comply with the Traffic Sight Obstructions in Chapter 10.32.

16.12.20 - Street design—Intersection angles.

Except where topography requires a lesser angle, streets shall be laid out to intersect at angles as near as possible to right angles. In no case shall the acute angles be less than eighty degrees unless there is a special intersection design. An arterial or collector street intersecting with another street shall have at least one hundred feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least fifty feet of tangent adjacent to the intersection unless topography requires a lesser distance. All street intersections shall be provided with a minimum curb return radius of twenty-five feet for local streets. Larger radii shall be required for higher street classifications as determined by the City Engineer. Additional right-of-way shall be required to accommodate curb returns and sidewalks at intersections. Ordinarily, intersections should not have more than two streets at any one point.

16.12.21 - Street design—Grades and curves.

Grades and center line radii shall conform to standards approved by the City Engineer.

16.12.22 - Street design—Development abutting arterial or collector street.

Where development abuts or contains an existing or proposed arterial or collector street, the decision maker may require: access control; screen planting or wall contained in an easement or otherwise protected by a restrictive covenant in a form acceptable to the decision maker along the rear or side property line; or such other treatment it deems necessary to adequately protect residential properties or afford separation of through and local traffic. Reverse frontage lots with suitable depth may also be considered an option for

residential property that has arterial frontage. Where access for development abuts and connects for vehicular access to another jurisdiction's facility then authorization by that jurisdiction may be required.

16.12.23 - Street design—Pedestrian and bicycle safety.

Where deemed necessary to ensure public safety, reduce traffic hazards and promote the welfare of pedestrians, bicyclists and residents of the subject area, the decision maker may require that local streets be so designed as to discourage their use by nonlocal automobile traffic.

The City Engineer may require that crosswalks include a large vegetated or sidewalk area which extends into the street pavement as far as practicable to provide safer pedestrian crossing opportunities. These curb extensions can increase the visibility of pedestrians and provide a shorter crosswalk distance as well as encourage motorists to drive slower. The City Engineer may approve an alternative design that achieves the same standard for constrained sites.

16.12.24 - Street design—Half street.

Half streets, while generally not acceptable, may be approved where essential to the development, when in conformance with all other applicable requirements, and where it will not create a safety hazard. When approving half streets, the decision maker shall first determine that it will be practical to require the dedication of the other half of the street when the adjoining property is divided or developed. Where the decision maker approves a half street, the applicant shall construct a half street with at least twenty feet of pavement width and provide signage prohibiting street parking so as to make the half street safe until such time as the other half is constructed. Whenever a half street is adjacent to property capable of being divided or developed, the other half of the street shall be provided and improved when that adjacent property divides or develops. Access control may be required to preserve the objectives of half streets.

When the remainder of an existing half-street improvement is completed it shall include the following items: dedication of required right-of-way, construction of the remaining portion of the street including pavement, curb and gutter, landscape strip, sidewalk, street trees, lighting and other improvements as required for that particular street. It shall also include at a minimum the pavement replacement to the centerline of the street. Any damage to the existing street shall be repaired in accordance with the City's "Pavement Cut Standards" or as approved by the City Engineer.

16.12.25 - Street design—Cul-de-sacs and dead-end streets.

The City discourages the use of cul-de-sacs and permanent dead-end streets except where construction of a through street is found by the decision maker to be impracticable due to topography or some significant physical constraint such as geologic hazards, wetland, natural or historic resource areas, pre-existing dedicated open space, pre-existing development patterns, arterial access restrictions or similar situation as determined by the decision maker. This section is not intended to preclude the use of curvilinear eyebrow widening of a street where needed.

- A. When permitted, access from new cul-de-sacs and permanent dead-end streets shall be limited to a maximum of twenty-five dwelling units.
- B. Cul-de-sacs and permanent dead-end streets shall include pedestrian/bicycle accessways to meet minimum block width standards as prescribed in OCMC 16.12.030.
- C. Cul-de-sacs shall have sufficient radius to provide adequate turn-around for emergency vehicles in accordance with fire district and City adopted street standards.
- D. Permanent dead-end streets shall provide public street right-of-way/easements sufficient to provide a sufficient amount of turn-around space complete with appropriate no-parking signs or markings to accommodate waste disposal, sweepers, emergency and other long vehicles in the form of a hammerhead or other design to be approved by the decision maker.

- E. 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. A dead-end street shall include signage or barricade meeting Manual on Uniform Traffic Control Devices (MUTCD).

16.12.26 - Street design—Alleys.

Alleys with public access easements on private property shall be provided in the Park Place and South End concept plan areas for the following districts R-5, R-3.5, R-2, MUC-1, MUC-2 and NC zones unless other permanent provisions for private access to off-street parking and loading facilities are approved by the decision maker. All alleys intended to provide access for emergency vehicles shall be a minimum width of twenty feet. The corners of alley intersections shall have a radius of not less than ten feet and shall conform to standards approved by the City Engineer. Access easements and maintenance agreements shall be recorded on affected properties.

16.12.27 - Street design—Off-site street improvements.

During consideration of the preliminary plan for a development, the decision maker shall determine whether existing streets impacted by, adjacent to, or abutting the development meet the applicable design or dimensional requirements. Where such streets fail to meet these requirements, the decision-maker shall require the applicant to make proportional improvements sufficient to achieve conformance with minimum applicable design standards required to serve the proposed development.

16.12.28 - Street design—Transit.

Streets shall be designed and laid out in a manner that promotes pedestrian and bicycle circulation. The applicant shall coordinate with transit agencies where the application impacts transit streets as identified in OCMC 17.04.1310. Pedestrian/bicycle access ways shall be provided as necessary to minimize the travel distance to transit streets and stops and neighborhood activity centers. The decision maker may require provisions, including easements, for transit facilities along transit streets where a need for bus stops, bus pullouts or other transit facilities within or adjacent to the development has been identified.

16.12.29 - Excavations—Restoration of pavement.

Whenever any excavation shall have been made in any pavement or other street improvement on any street or alley in the City for any purpose whatsoever under the permit granted by the engineer, it shall be the duty of the person making the excavation to restore the pavement in accordance with the City of Oregon City Public Works Pavement Cut Standards in effect at the time the permit is granted. The City Commission may adopt and modify the City of Oregon City Public Works Pavement Cut Standards by resolution as necessary to implement the requirements of this chapter.

16.12.30 - Blocks—Width.

The width of blocks shall ordinarily be sufficient to allow for two tiers of lots with depths consistent with the type of land use proposed. The length, width and shape of blocks shall take into account the need for adequate building site size, convenient motor vehicle, pedestrian, bicycle and transit access, control of traffic circulation, and limitations imposed by topography and other natural features.

All new streets shall be designed as local streets unless otherwise designated as arterials and collectors in the current adopted Transportation System Plan. The maximum block spacing between streets is 530 feet and the minimum block spacing between streets is 150 feet as measured between the right-of-way centerlines except in zones GI, CI, MUE, I, and WFDD where determining the

appropriate street spacing will be determined by the City Engineer. If the maximum block size is exceeded, pedestrian accessways shall be provided every 330 feet. The spacing standards within this section do not apply to alleys.

16.12.31 - Street design—Street names.

Except for extensions of existing streets, no street name shall be used which will duplicate or be confused with the name of an existing street. Street names shall conform to the established standards in the City and shall be subject to the approval of the City.

16.12.32 – Public off-street pedestrian and bicycle accessways.

Pedestrian/bicycle accessways are intended to provide direct, safe and convenient connections between residential areas, retail and office areas, institutional facilities, industrial parks, transit streets, neighborhood activity centers, rights-of-way, and pedestrian/bicycle accessways which minimize out-of-direction travel, and transit-orientated developments where public street connections for automobiles, bicycles and pedestrians are unavailable. Pedestrian/bicycle accessways are appropriate in areas where public street options are unavailable, impractical or inappropriate. Pedestrian and bicycle accessways are required through private property or as right-of-way connecting development to the right-of-way at intervals not exceeding 330 feet of frontage; or where the lack of street continuity creates inconvenient or out of direction travel patterns for local pedestrian or bicycle trips.

Entry points shall align with pedestrian crossing points along adjacent streets and with adjacent street intersections.

- A. Accessways shall be free of horizontal obstructions and have a nine foot six inch high vertical clearance to accommodate bicyclists. To safely accommodate both pedestrians and bicycles, accessway right-of-way widths shall be as follows:
 - 1. Accessways shall have a fifteen-foot wide right-of-way with a seven-foot wide paved surface with a minimum four-foot planter strip on either side.
 - 2. If an accessway also provides secondary fire access, the right-of-way width shall be at least twenty-four feet wide with a sixteen foot paved surface between four-foot planter strips on either side.
- B. Accessways shall be direct with at least one end point of the accessway always visible from any point along the accessway. On-street parking shall be prohibited within fifteen feet of the intersection of the accessway with public streets to preserve safe sight distance and promote safety.
- C. To enhance pedestrian and bicycle safety, accessways 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.
- D. Accessways shall comply with Americans with Disabilities Act (ADA).
- E. The planter strips on either side of the accessway shall be landscaped along adjacent property by installation of the following:
 - 1. Either an evergreen hedge screen of thirty to forty-two inches high or shrubs spaced no more than four feet apart on average; and
 - 2. Ground cover covering one hundred percent of the exposed ground. No bark mulch shall be allowed except under the canopy of shrubs and within two feet of the base of trees; and
 - 3. A two-inch minimum caliper tree for every thirty-five feet along the accessway. Trees

may be planted on either side of the accessway, provided they are spaced no more than thirty-five feet apart; and

4. In satisfying the requirements of this section, evergreen plant materials that grow over forty- two inches in height shall be avoided. All plant materials shall be selected from the Oregon City Native Plant List.
- F. Accessways shall be designed to prohibit unauthorized motorized traffic. Curbs and removable, lockable bollards are suggested mechanisms to achieve this.
- G. Accessway surfaces shall be paved with all-weather materials as approved by the City. Pervious materials are encouraged. Accessway surfaces shall be designed to drain stormwater runoff to the side or sides of the accessway. Minimum cross slope shall be two percent.
- H. In parks, greenways or other natural resource areas, accessways may be approved with a five-foot wide gravel path with wooden, brick or concrete edgings.
- I. The decision maker may approve an alternative accessway design due to existing site constraints through the modification process set forth in OCMC 16.12.013.
- J. Ownership, liability and maintenance of accessways. To ensure that all pedestrian/bicycle accessways will be adequately maintained over time, the City Engineer shall require one of the following:
 1. Dedicate the accessways to the public as public right-of-way prior to the final approval of the development; or
 2. The developer incorporates the accessway into a recorded easement or tract that specifically requires the property owner and future property owners to provide for the ownership, liability and maintenance of the accessway.

16.12.33 - Mobility standards.

Development shall demonstrate compliance with intersection mobility standards. When evaluating the performance of the transportation system, the City of Oregon City requires all intersections, except for the facilities identified in subsection E below, to be maintained at or below the following mobility standards during the two-hour peak operating conditions. The first hour has the highest weekday traffic volumes and the second hour is the next highest hour before or after the first hour. Except as provided otherwise below, this may require the installation of mobility improvements as set forth in the Transportation System Plan (TSP) or as otherwise identified by the City Engineer.

- A. For intersections within the regional center, the following mobility standards apply:
 1. During the first hour, a maximum v/c ratio of 1.10 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
 2. During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
 3. Intersections located on the Regional Center boundary shall be considered within the Regional Center.
- B. For intersections outside of the Regional Center but designated on the Arterial and Throughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:
 1. During the first hour, a maximum v/c ratio of 0.99 shall be maintained. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized

- intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
2. During the second hour, a maximum v/c ratio of 0.99 shall be maintained at signalized intersections. For signalized intersections, this standard applies to the intersection as a whole. For unsignalized intersections, this standard applies to movements on the major street. There is no performance standard for the minor street approaches.
- C. For intersections outside the boundaries of the Regional Center and not designated on the Arterial and Thoroughway Network, as defined in the Regional Transportation Plan, the following mobility standards apply:
1. For signalized intersections:
 - a. During the first hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.
 - b. During the second hour, LOS "D" or better will be required for the intersection as a whole and no approach operating at worse than LOS "E" and a v/c ratio not higher than 1.0 for the sum of the critical movements.
 2. For unsignalized intersections outside of the boundaries of the Regional Center:
 - a. For unsignalized intersections, during the peak hour, all movements serving more than twenty vehicles shall be maintained at LOS "E" or better. LOS "F" will be tolerated at movements serving no more than twenty vehicles during the peak hour.
- D. For the intersection of OR 213 & Beavercreek Road, the following mobility standards apply:
1. During the first, second & third hours, a maximum v/c ratio of 1.00 shall be maintained. Calculation of the maximum v/c ratio will be based on an average annual weekday peak hour.
- E. Until the City adopts new performance measures that identify alternative mobility targets, the City shall exempt proposed development that is permitted, either conditionally, outright, or through detailed development master plan approval, from compliance with the above-referenced mobility standards for the following state-owned facilities:
- F. I-205/OR 99E Interchange.
- G. State intersections located within or on the Regional Center Boundaries
1. In the case of conceptual development approval for a master plan that impacts the above references intersections:
 - a. The form of mitigation will be determined at the time of the detailed development plan review for subsequent phases utilizing the Code in place at the time the detailed development plan is submitted; and
 - b. Only those trips approved by a detailed development plan review are vested.
 2. Development which does not comply with the mobility standards for the intersections identified in OCMC 16.12.033 shall provide for the improvements identified in the Transportation System Plan (TSP) in an effort to improve intersection mobility as necessary to offset the impact caused by development. Where required by other provisions of the Code, the applicant shall provide a traffic impact study that includes an assessment of the development's impact on the intersections identified in this exemption and shall construct the intersection improvements listed in the TSP or required by the Code.

16.12.035 - Driveways.

- A. All new development, redevelopment, and capital improvement projects shall meet the minimum driveway spacing standards identified in Table 16.12.035.A. Minor Site Plan and Design Review do not follow these standards unless a request is made to modify the driveway.

| Table 16.12.035.A Minimum Driveway Spacing Standards | | |
|--|--|----------|
| Street Functional Classification | Minimum Driveway Spacing Standards | Distance |
| Major Arterial Streets | Minimum distance from a street corner to a driveway and between driveways for all uses other than detached single and two-family dwellings | 175 ft. |
| Minor Arterial Streets | Minimum distance from a street corner to a driveway and between driveways for all uses other than detached single and two-family dwellings | 175 ft. |
| Collector Streets | Minimum distance from a street corner to a driveway and between driveways for all uses other than detached single and two-family dwellings | 100 ft. |
| Local Streets | Minimum distance from a street corner to a driveway and between driveways | 25 ft. |

The distance from a street corner to a driveway is measured along the right-of-way from the edge of the intersection (on the same side of the road) right-of-way to the nearest portion of the driveway and the distance between driveways is measured at the nearest portions of the driveway at the right-of-way.

- B. All detached single and two family dwellings shall have driveways which meet the minimum distance standards except when the lot size is smaller than the minimum distance required. When minimum distance cannot be met due to lot size or due to the location of an overlay district, the driveway shall be located as far away from the intersection as possible as approved by the City Engineer.
- C. Nonresidential or multi-family residential use driveways that generate high traffic volumes as determined by a traffic analysis shall be treated as intersections and shall adhere to requirements of OCMC 16.12.020.
- D. Only one driveway is allowed per street frontage classified as a local street and in no case shall more than two driveways (one per frontage) be allowed for any single-family attached or detached residential property, duplex, 3- 4 plex, or property developed with an ADU or internal conversion with multiple frontages, unless otherwise approved by the City Engineer.
- E. When a property fronts multiple roads, access shall be provided from and limited to the road with the lowest classification in the Transportation System Plan to minimize points of access to arterials and collectors. Access shall not be provided on Arterial or Collector roads unless there is no other alternative. At the discretion of the City Engineer, properties fronting a collector or arterial road may be allowed a second driveway, for the creation of a circulation pattern that eliminates reverse maneuvers for vehicles exiting a property if applied for and granted through procedures in OCMC 16.12.013. All lots proposed with a driveway and lot orientation on a collector or minor arterial shall combine driveways into one joint access per two or more lots unless the City Engineer

determines that:

1. No driveway access may be allowed since the driveway(s) would cause a significant traffic safety hazard; or
2. Allowing a single driveway access per lot will not cause a significant traffic safety hazard.

F. All driveway approaches shall be limited to the dimensions identified in Table 16.12.035.D.

| Table 16.12.035.D Driveway Approach Size Standards | | | |
|---|---------------------------------|--------------------|---------------------------------|
| Property Use | Minimum Driveway Approach Width | | Maximum Driveway Approach Width |
| Single-Family | 10 feet | | 24 feet |
| Duplexes | 12 feet | | 24 feet |
| 3-4 Plexes | 12 feet | | 36 feet |
| Multi-Family | 18 feet | | 30 feet |
| Commercial, Industrial, Office, Institutional, Mixed Use, and/or Nonresidential | One-Way 12 feet | Two-Way 20 feet | 40 feet |

Driveway widths shall match the width of the driveway approach where the driveway meets sidewalk or property line but may be widened onsite (for example between the property line and the entrance to a garage). Groups of more than four parking spaces shall be so located and served by driveways so that their use will not require backing movements or other maneuvering within a street right-of-way other than an alley.

- G. The City Engineer reserves the right to require a reduction in the number and size of driveway approaches as far as practicable for any of the following purposes:
1. To provide adequate space for on-street parking;
 2. To facilitate street tree planting requirements;
 3. To assure pedestrian and vehicular safety by limiting vehicular access points; and
 4. To assure that adequate sight distance requirements are met.
 - a. Where the decision maker determines any of these situations exist or may occur due to the approval of a proposed development for non-residential uses or attached or multi-family housing, a shared driveway shall be required and limited to twenty-four feet in width adjacent to the sidewalk or property line.
- H. For all driveways, the following standards apply.
1. Each new or redeveloped curb cut shall have an approved concrete approach or asphalted street connection where there is no concrete curb and a minimum hard surface for at least ten feet back into the property as measured from the current edge of sidewalk or street pavement to provide for controlling gravel tracking onto the public street. The hard surface may be concrete, asphalt, or other surface approved by the City Engineer.
 2. Any driveway approach built within public right-of-way shall be built and permitted per City requirements as approved by the City Engineer.
 3. No driveway with a slope of greater than fifteen percent shall be permitted without approval of the City Engineer.

- I. Exceptions. The City Engineer reserves the right to waive these standards or not allow driveway access, if the driveway(s) would cause a significant traffic safety hazard. Narrower or wider driveway widths may be considered where field conditions preclude use of recommended widths. When larger vehicles and trucks will be the predominant users of a particular driveway, turning templates may be utilized to develop a driveway width that can safely and expeditiously accommodate the prevalent type of ingress and egress traffic.

16.12.065 - Building site—Grading.

Grading of building sites shall conform to the State of Oregon Structural Specialty Code, Title 18, any approved grading plan and any approved residential lot grading plan in accordance with the requirements of OCMC 13.12,15.48, 16.12 and the Public Works Stormwater and Grading Design Standards, and the erosion control requirements of OCMC 17.47.

16.12.85 - Easements.

The following shall govern the location, improvement and layout of easements:

- A. Utilities. Utility easements shall be required where necessary as determined by the City Engineer. Insofar as practicable, easements shall be continuous and aligned from block-to-block within the development and with adjoining subdivisions or partitions.
 1. Specific public utility easements for water, sanitary or storm drainage shall be provided based on approved final engineering plans conforming to the requirements found within the applicable Design Standards.
 2. Conveyance of public utility easements for gas, electric, telecommunication, and fiberoptic shall be required where necessary as determined by the City Engineer. The City Engineer will require the easement unless it is found that the utility can be placed in a different location or can be placed in a smaller easement than what is required. The easement shall be located adjacent to all public right of ways or public access easements within private property. In the event that the provision of a public utility easement would create a conflict with achieving compliance with another part of the code, the location and width may be adjusted by the City Engineer.
 - a. The easement shall be 10 feet in the R-10, R-8, R-6, R-5, R-3.5, R-2, GI, and CI zones
 - b. The easement shall be a minimum of 5 feet in the NC, HC, I, C, MUC-1, MUC-2, MUE, MUD, and WFDD zones
 - a. The applicant shall obtain a written determination from all utilities that the minimum 5 foot PUE coupled with use of a minimum of a 5 foot area under the public sidewalk or parkway area is sufficient to serve the development. Where the minimum width is deemed inadequate, a modification shall be required.
 - c. An applicant may seek a modification to the public utility easement dedication requirement using 16.12.013.
- B. Unusual Facilities. Easements for unusual facilities such as high voltage electric transmission lines, drainage channels and stormwater detention facilities shall be adequately sized for their intended purpose, including any necessary maintenance roads.

These easements shall be shown to scale on the preliminary and final plats or maps. If the easement is for drainage channels, stormwater detention facilities or related purposes, the easement shall comply with the requirements of the Public Works Stormwater and Grading Design Standards.

- C. Watercourses. Where a development is traversed or bounded by a watercourse, drainageway, channel or stream, a stormwater easement or drainage right-of-way shall be provided which conforms substantially to the line of such watercourse, drainageway, channel or stream and is of a sufficient width to allow construction, maintenance and control for the purpose as required by the responsible agency. For those subdivisions or partitions which are bounded by a stream of established recreational value, setbacks or easements may be required to prevent impacts to the water resource or to accommodate pedestrian or bicycle paths.
- D. Access. When easements are used to provide vehicular access to lots within a development, the construction standards, but not necessarily width standards, for the easement shall meet City specifications. The minimum width of the easement shall be 20 feet. The easements shall be improved and recorded by the applicant and inspected by the City Engineer. Access easements may also provide for utility placement.
- E. Resource Protection. Easements or other protective measures may also be required as the Community Development Director deems necessary to ensure compliance with applicable review criteria protecting any unusual significant natural feature or features of historic significance.

16.12.90 - Minimum improvements—Procedures.

In addition to other requirements, improvements installed by the applicant either as a requirement of these or other regulations, or at the applicant's option, shall conform to the requirements of this title and be designed to City specifications and standards as set out in the City's facility master plan and Public Works Stormwater and Grading Design Standards. The improvements shall be installed in accordance with the following procedure:

- A. Improvement work shall not commence until construction plans have been reviewed and approved by the City Engineer and to the extent that improvements are located in County or State right-of-way, they shall be approved by the responsible authority. To the extent necessary for evaluation of the proposal, the plans may be required before approval of the preliminary plat of a subdivision or partition. Expenses incurred thereby shall be borne by the applicant and paid for prior to final plan review.
- B. Improvements shall be constructed under the inspection and approval of the City Engineer. Expenses incurred thereby shall be borne by the applicant and paid prior to final approval. Where required by the City Engineer or other City decision-maker, the applicant's project engineer also shall inspect construction.
- C. Erosion control or resource protection facilities or measures are required to be installed in accordance with the requirements of OCMC 17.47, 17.49 and the Public Works Erosion and Sediment Control Standards.
- D. Underground utilities, waterlines, sanitary sewers and storm drains installed in streets shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities, such as, storm, water and sanitary sewer shall be placed beyond the ten-foot wide public utility easement within private property as defined in OCMC 16.12.85.A.2.
- E. As-built construction plans and digital copies of as-built drawings shall be filed with the City Engineer upon completion of the improvements.

- F. The City Engineer may regulate the hours of construction and access routes for construction equipment to minimize impacts on adjoining residences or neighborhoods.

16.12.095 - Minimum improvements—Public facilities and services.

The following minimum improvements shall be required of all applicants for a development, unless the decision-maker determines that any such improvement is not proportional to the impact imposed on the City's public systems and facilities:

- A. Transportation System. Applicants and all subsequent lot owners shall be responsible for improving the City's planned level of service on all public streets, including alleys within the development and those portions of public streets adjacent to but only partially within development. Applicants are responsible for designing and providing adequate vehicular, bicycle and pedestrian access to their developments and for accommodating future access to neighboring undeveloped properties that are suitably zoned for future development. Storm drainage facilities shall be installed and connected to off-site natural or man-made drainageways. Upon completion of the street improvement survey, the applicant shall reestablish and protect monuments of the type required by ORS 92.060 in monument boxes with covers at every public street intersection and all points of curvature and points of tangency of their center line, and at such other points as directed by the City Engineer.
- B. Stormwater Drainage System. Applicants shall design and install drainage facilities within a development and shall connect the development's drainage system to the appropriate downstream storm drainage system as a minimum requirement for providing services to the applicant's development. The applicant shall obtain county or state approval when appropriate. Applicants are responsible for extending the appropriate storm drainage system to the development site and for providing for the connection of upgradient properties to that system. The applicant shall design the drainage facilities in accordance with City drainage master plan requirements, OCMC 13.12 and the Public Works Stormwater and Grading Design Standards.
- C. Sanitary Sewer System. The applicant shall design and install a sanitary sewer system to serve all lots or parcels within a development in accordance with the City's sanitary sewer design standards, and shall connect those lots or parcels to the City's sanitary sewer system, except where connection is required to the county sanitary sewer system as approved by the county. Applicants are responsible for extending the City's sanitary sewer system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development. The applicant shall obtain all required permits and approvals from all affected jurisdictions prior to final approval and prior to commencement of construction. Design shall be approved by the City Engineer before construction begins.
- D. Water System. The applicant shall design and install a water system to serve all lots or parcels within a development in accordance with the City public works water system design standards, and shall connect those lots or parcels to the City's water system. Applicants are responsible for extending the City's water system to the development site and through the applicant's property to allow for the future connection of neighboring undeveloped properties that are suitably zoned for future development.
- E. Street Trees. Refer to OCMC 12.08, Street Trees.
- F. Bench Marks. At least one bench mark shall be located within the subdivision boundaries using datum plane specified by the City Engineer.
- G. Other Utilities. The applicant shall make all necessary arrangements with utility companies or other affected parties for the installation of underground lines and facilities. All new utilities

shall be placed underground unless the respective franchise agreements allow otherwise or unless it is physically or technically impossible to comply with applicable standards. Existing electrical lines and other wires, including but not limited to telecommunication, street lighting and fiberoptic, shall be relocated underground.

1. Exemptions to relocation of existing overhead utilities to underground for property development as follows (Only one exemption criteria is required to be exempt from this requirement):
 - a. No transmission or feeder lines shall be relocated underground unless approved by the City Engineer.
 - b. Properties with less than 1.0 acre of land area shall not be required to relocate existing overhead utilities unless required by the franchise utility.
 - c. Properties with less than 200 feet of frontage on any individual roadway shall not be required to relocate existing overhead utilities unless required by the franchise utility.
 - d. Land divisions with 5 or fewer subdivided lots shall not be required to relocate existing overhead utilities unless required by the franchise utility.
 2. The exemptions in G.1. do not apply if properties within the same block were required to relocate the overhead utilities within the past 10 years. In those cases, the existing overhead utilities shall be relocated underground.
 3. When any franchise utility (electric, gas, telecommunication, fiberoptic, street lighting or similar utility) is installed along an existing or new roadway, the utility shall be installed within the existing or proposed public utility easement unless it is physically or technically impossible.
 4. These requirements do not apply to work by a franchise utility for improvement, repair, alteration or addition to their existing systems.
- H. Oversizing of Facilities. All facilities and improvements shall be designed to City standards as set out in the City's facility master plan, public works design standards, or other City ordinances or regulations. Compliance with facility design standards shall be addressed during final engineering. A development may be required to modify or replace existing offsite systems if necessary to provide adequate public facilities. The City may require oversizing of facilities to meet standards in the City's facility master plan or to allow for orderly and efficient development. Where oversizing is required, the applicant may request reimbursement from the City for oversizing based on the City's reimbursement policy and funds available, or provide for recovery of costs from intervening properties as they develop.
- I. Erosion Control Plan—Mitigation. The applicant shall be responsible for complying with all applicable provisions of OCMC 17.47 with regard to erosion control.

16.12.100 - Same—Road standards and requirements.

- A. The creation of a public street and the resultant separate land parcels shall be in conformance with requirements for subdivisions or partitions and the applicable street design standards of this Chapter. However, the decision-maker may approve the creation of a public street to be

established by deed without full compliance with the regulations applicable to subdivisions or partitions where any of the following conditions exist:

1. The establishment of the public street is initiated by the City Commission and is declared essential for the purpose of general traffic circulation and the partitioning of land is an incidental effect rather than the primary objective of the street;
 2. The tract in which the street is to be dedicated is within an isolated ownership either not over one acre or of such size and characteristics as to make it impossible to develop building sites for more than three dwelling units.
- B. For any public street created pursuant to subsection A of this section, a copy of a preliminary plan and the proposed deed shall be submitted to the Community Development Director and City Engineer at least ten days prior to any public hearing scheduled for the matter. The plan, deed and any additional information the applicant may submit shall be reviewed by the decision-maker and, if not in conflict with the standards of Title 16 and Title 17, may be approved with appropriate conditions.
- C. The design and construction of public streets shall be per the standards found in this chapter and the most recent version of any City Design and Construction Standards.

16.12.105 - Same—Timing requirements.

- A. Prior to applying for final plat approval, the applicant shall either complete construction of all public improvements required as part of the preliminary plat approval or guarantee the construction of those improvements. Whichever option the applicant elects shall be in accordance with OCMC 17.50.140.
- B. Construction. The applicant shall construct the public improvements according to approved final engineering plans and all applicable requirements of this Code, and under the supervision of the City Engineer. Under this option, the improvement shall be complete and accepted by the City Engineer prior to final plat approval.

16.12.110 -Public improvements—Financial guarantees.

- A. To ensure construction of required public improvements, the applicant shall provide the City with a performance guarantee in accordance with OCMC 17.50.140.
- B. After satisfactory completion of required public improvements and facilities, all public improvements not constructed by the City, shall be maintained and under warranty provided by the property owner or developer constructing the facilities until the City accepts the improvements at the end of the warranty period as prescribed in OCMC 17.50.141.

16.12.120 Waiver of Remonstrance

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.

16.12.125 - Violation—Penalty.

Any act or omission in violation of this chapter shall be deemed a nuisance. Violation of any provision of this chapter is subject to the code enforcement procedures of OCMC 1.16, 1.20 and 1.24.

Oregon City Municipal Code

Chapter 17.04 Definitions

17.4.5 - Generally.

- A. As used in this title, words in the present tense include the future; the singular number includes the plural and the plural number includes the singular; unless the context clearly indicates the contrary, the word "shall" is mandatory and not discretionary; the word "may" is permissive; the masculine gender includes the feminine and neuter; and the term "this title" shall be deemed to include the text of this title and accompanying zoning maps and all amendments hereafter made thereto.
- B. Whenever the following words or terms and their derivatives are used in this title, they shall have the meaning herein ascribed to them, unless the context makes such meaning repugnant thereto.

17.4.6 3-4 plex residential

"3-4 plex residential" is a building located on one lot and containing three to four dwelling units in any vertical or horizontal arrangement. The units in a 3-4 plex shall share a common structural wall or a common floor/ceiling.

17.04.010 - Accessory building or accessory structure.

"Accessory building" or "accessory structure" means a detached building or structure subordinate in size and use, but located on the same lot as, a principal building.

17.04.015 - "Accessory Dwelling Unit" (ADU).

"Accessory Dwelling Unit" (ADU) means a residential dwelling unit located on the same lot as a single-family dwelling, that is not a recreational vehicle. The habitable living unit provides basic living requirements including permanent cooking and toilet facilities, and may be either attached to the same building as the single-family dwelling unit or in a detached building.

17.04.020 - Access control.

"Access control" means the regulation of public access rights to and from properties abutting public rights-of-way by the construction of physical barriers or conveyance to the city of a property interest (reserve strip) that prevents access to the public right-of-way.

17.04.025 - Accessway.

"Accessway" means any public or private way that is created to provide ingress or egress for persons to one or more lots, parcels, areas, or tracts of land. The term "accessway" includes highway, streets, roads, avenues, alleys, paths, sidewalks or similar designations.

17.04.030 - Accessway, pedestrian/bicycle.

"Accessway, pedestrian/bicycle" means any off-street path or way as described in OCMC 16.12, intended primarily for pedestrians or bicycles and which provides direct routes within and from new developments to residential areas, retail and office areas, transit streets and neighborhood activity centers.

17.04.035 - Access, vehicular.

"Vehicular access" means an improved roadway, either public or private, providing automobile entrance and/or exit from an approved public street.

17.04.037 - After-Hours Public Parking.

"After-hours public parking" means utilization of parking, not within the right-of-way, by the public with or without charge when the associated primary use is not active.

17.04.040 - Alley.

"Alley" means a public or private way not more than 20 feet wide that provides access to a property or properties from a side other than the designated front of the property.

17.04.045 - Alteration.

"Alteration" means the addition to, removal of or from, or physical modification or repair of, any exterior part or portion of a landmark or structures in an historic or conservation district. In an historic district any physical change shall be considered a form of alteration and shall be treated as such, except repair and maintenance or change of copy.

17.04.050 - Amateur radio operators.

"Amateur radio operator" means a ham radio operator, as licensed by the United States Government.

17.04.055 - Anadromous fish-bearing stream.

"Anadromous fish-bearing stream" means a stream or portion of a stream which is identified by resolution of the City Commission as spawning or rearing habitat for those species of fish which return to rivers from the sea for breeding.

17.04.060 - Antenna.

"Antenna" means any pole, panel, rod, reflection disc or similar device used for the transmission or reception of radio frequency signals, including, but not limited to omni-directional antenna (whip), directional antenna (panel), micro cell, and parabolic antenna (dish). The antenna does not include the support structure or tower.

17.04.070 - Applicant.

"Applicant" means the party or parties who submit an application seeking development approval through an administrative, quasi-judicial or legislative procedure under OCMC Chapter 16 or 17.

17.04.075 - Application.

"Application" means any request for approval of a permit or a legislative amendment to the City's land use regulations, comprehensive plan or related zoning maps.

17.4.80 - Approval criteria and approval standards.

"Approval criteria" and "approval standards" mean all standards which must be met in order to approve an application. Depending upon the specific application, approval criteria include standards contained in this Code, the Oregon City Comprehensive Plan and applicable state law.

17.4.81 - Aquifer.

"Aquifer" is a geologic formation, group of formations, or part of a formation that contains sufficient saturated permeable material to yield significant quantities of water to wells and springs.

17.4.82 - Arborist, certified.

"Certified Arborist" means a professional tree service provider whose certification is regulated and current and maintained with the International Society of Arboriculture (ISA). To use the term "Certified Arborist", an individual must have three years of experience and have passed an ISA certification exam that tests a variety of tree care knowledge.

17.4.83 - Arcade, pedestrian.

A covered area contiguous to a street or plaza that is open and unobstructed to a height of not less than 10 feet and that provides public access to building entrances, retail space and/or public space. An arcade may include building columns, landscaping, statuary, pools, or fountains as part of the arcade for the purpose of computing area. The term "arcade" shall not include off-street loading areas, driveways, off-street parking areas, or open pedestrian walkways.

17.04.085 - Architect.

"Architect" means an architect licensed by the State of Oregon.

17.4.90 - Architectural significance.

"Architectural significance" for the purposes of OCMC 17.40 means that the structure or district:

1. Portrays the environment of a group of people in an era of history characterized by a distinctive architectural style;
2. Embodies those distinguishing characteristics of an architectural-type specimen;
3. Is the work of an architect or master builder whose individual work has influenced the development of the city; or
4. Contains elements of architectural design, detail, materials or craftsmanship which represents a significant innovation.

17.04.095 - Arterial.

"Arterial" means any street so designated in the city's transportation master plan.

17.04.100 - Attachment.

"Attachment" means for the purposes of OCMC 17.80, an antenna or other piece of related equipment affixed to a transmission tower, building, light, utility pole, or water tower.

17.04.105 - Area of special flood hazard.

"Area of special flood hazard" means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

17.04.110 - Array.

"Array" means the combination of antennas mounted on a support structure or support tower.

17.04.115 - Assisted living facility.

"Assisted living facility" means a facility established for profit or nonprofit, which provides nursing care and related medical services on a 24-hour-per-day basis to sixteen or more individuals because of illness, disease, or physical or mental infirmity. Provides care for those persons not in need of hospital care. Patients do not reside in self-contained dwelling units.

17.04.120 - Auxiliary support equipment.

"Auxiliary Support Equipment" means for the purposes of OCMC 17.80 all equipment necessary to provide wireless communication signals and data, including but not limited to, electronic processing devices, air conditioning units, and emergency generators. For the purpose of this chapter, auxiliary support equipment shall also include the shelter, cabinets, and other structural facilities used to house and shelter necessary equipment. Auxiliary support equipment does not include support towers or structures.

17.04.125 - Bankfull stage or bankfull flow.

"Bankfull stage" or "bankfull flow" means the stage or elevation of a stream at which water overflows the natural banks of streams or other waters of this state. The bankfull stage or flow may be approximated using either the 2-year recurrence interval flood elevation or one foot measured vertically above the ordinary mean high water line.

17.04.130 - Base flood.

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the one hundred-year flood.

17.04.135 - Basement.

"Basement" means a story partly underground. A basement shall be counted as a story in accordance with the accepted Building Division definitions.

For the purpose of OCMC 17.42 basement means any area of the building having its floor subgrade (below ground level) on all sides.

17.04.140 – Base flood elevation.

"Base flood elevation" means the elevation of the base flood or one hundred-year storm as defined in FEMA (Federal Emergency Management Agency) flood insurance studies, or the highest flood of record since the adoption of the flood insurance maps, or, in areas without FEMA floodplains, the elevation of the twenty-five-year storm, or the edge of mapped floodprone soils or similar methodologies whichever is higher.

17.04.145 - Bed and breakfast inns/boardinghouse.

"Bed and breakfast inns and boardinghouses means building(s) which provides overnight accommodations to the public for fewer than 30 consecutive days.

17.04.150 - Beneficial uses or beneficial water uses.

"Beneficial uses" or "beneficial water uses" means, as defined by the Oregon Department of Water Resources, use of an in stream public use of water for the benefit of an appropriator for a purpose consistent with the laws and the economic and general welfare of the people of the state and includes, but is not limited to, domestic, fish life, industrial, irrigation, mining, municipal, pollution abatement, power development, recreation, stock water and wildlife uses.

17.4.153 - Board.

"Board" for the purposes of OCMC 17.40 means the historic review board.

17.4.154 – Building.

"Building" means structure.

17.4.155 - Building, compatible.

"Compatible building" means for the purposes of OCMC 17.40, buildings in the Canemah National Register Historic District, which date from 1910 to the 1950's.

17.04.160 - Building, historic.

"Historic building" means for the purposes of OCMC 17.40, any primary, secondary or compatible building in the Canemah National Register Historic District, or any locally designated structure elsewhere in the City.

17.04.165 - Building of primary historic significance.

"Building of primary historic significance" shall include buildings in the Canemah National Register Historic district shall include buildings dating from prior to 1880 which are primarily one and one-half or two-story frame structures built in the Gothic Revival and Classic Revival styles. These buildings are primarily single-family dwellings.

17.04.170 - Building of secondary historic significance.

"Building of secondary historic significance" shall include buildings in the Canemah National Register Historic District dating from 1880 to 1940 which are predominantly rural farm house style and bungalows. These buildings are primarily single-family dwellings.

17.04.175 - Camouflage.

"Camouflage" for the purposes of OCMC 17.80 means the design and construction of a wireless communications facility (WCF) to resemble an object that is not a wireless communication facility and which is typically present in the environment.

17.04.176 – Capital Improvement Project.

"Capital Improvement Project" is a project located within an existing or proposed right-of-way or easement including roads, water mains, sanitary sewers, storm sewers and their appurtenances where the project is solely or partially funded by City funds and is solely or partially administered by the City of Oregon City.

17.4.177 - Cargo container.

A standardized, reusable vessel that is or appears to be: (1) originally, specifically or formerly designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities, or (2) designed for being mounted or moved on a rail car, or (3) designed for or capable of being mounted on a chassis or bogie for movement by truck trailer or loaded on a ship.

17.4.178 - Carpool.

"Carpool" means a group of two or more commuters, including the driver, who share the ride to or from work, school or other destination.

17.04.180 - Certified engineering geologist.

"Certified Engineering Geologist" is any registered geologist who is certified in the specialty of engineering geology under provisions of ORS 672.505 to 672.705.

17.04.185 - Citizen Involvement Committee.

"Citizen Involvement Committee" means an officially recognized advisory body on citizen involvement with one representative from each neighborhood association.

17.04.190 - City.

"City" means the City of Oregon City.

17.4.195 - City Engineer.

"City Engineer" means the engineer manager for the city, their duly authorized representative(s), or the City's duly authorized representative(s) as designated by the City manager or Public Works Director.

17.4.196 - City Transportation Engineer.

"City Transportation Engineer" means the transportation planning engineer for the City, their duly authorized representative(s), or the City's duly authorized representative(s) as designated by the City Manager.

17.4.197 - Cluster housing

"Cluster housing" means a cluster of four or more dwelling units around a central common space sharing site amenities such as parking and landscaping in a coherent site design, located either on a single lot or individually platted lots.

17.04.200 - Code.

"Code" means the Oregon City Municipal Code.

17.04.205 - Commercial vehicles.

"Commercial vehicle" means a vehicle of over eight thousand pounds gross weight that is designed for or being used to transport merchandise, or a vehicle of less than 8,000 pounds gross weight.

17.04.210 - Collector.

"Collector" means any street so designated in the city's transportation master plan.

17.04.215 - Collocation.

"Collocation" or "Co-location" means the use of a common wireless communications support structure or tower for two or more antenna arrays.

17.04.220 - Community Development Director.

"Community Development Director" means the manager of the Planning Division or the Community Development Director 's designee.

17.04.225 - Comprehensive plan.

"Comprehensive plan" means the City of Oregon City Comprehensive Plan.

17.04.227 – Concept plan area.

"Concept plan area" is a defined area for which there is an adopted concept plan, including the South End Concept Plan area, the Beavercreek Road Concept Plan area, and the Park Place Concept Plan area.

17.04.230 - Construction area.

Defined as right-of-way, public utility easements, and within the building footprint of a building site for any mixed-use, commercial or industrial development, or if a residential development, within the allowable building footprint permitted by the setback requirements of the zone district.

17.04.235 - Constructed wetlands.

"Constructed wetlands" means wetlands developed as a water quality or quantity facility, subject to change and maintenance as such. These areas must be clearly defined and separated from naturally occurring or created wetlands.

17.4.255 - Commercial vehicles.

"Commercial vehicle" means:

- A. A vehicle of over eight thousand pounds gross weight that is designed for or being used to transport merchandise, or a vehicle of less than eight thousand pounds gross weight with the business name of the user permanently exhibited on one or both of its sides that is designed and being used to transport merchandise;
- B. A station wagon or other vehicle with the business name of the user permanently exhibited on one or both of its sides, when used for transporting merchandise.

17.04.260 Corner duplexes

"Corner duplex" means a building containing two dwelling units on one lot, located on a corner lot, where the units share a common structural wall or a common floor/ceiling and are not a primary or Accessory Dwelling Units.

17.04.265 - Created wetlands.

"Created wetlands" means wetlands developed in an area previously identified as a non-wetland to replace, or mitigate wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.

17.04.267 - Crest.

"Crest" of slope means the point of curvature where the ground surface descends from the top of a slope.

17.04.270 - Cul-de-sac.

"Cul-de-sac" means a street not more than three hundred fifty feet in length having one end open to traffic and being terminated by a vehicle turnaround. The cul-de-sac is measured from the edge of the right-of-way of the intersecting street to the edge of the pavement at the end of the cul-de-sac.

17.04.275 - Day care facility.

"Day care facility" means a facility that provides regular day care services to children under thirteen years of age, including a day nursery, nursery school group or similar unit operating under any name. A day care facility shall not include services provided by a physician or nurse, or facilities operated primarily for education or supervised training or instruction, or day care provided by a "babysitter" or "family day care provider" as defined in this chapter. A day care facility caring for ten or more children shall satisfy the certification requirements of the Children's Services Division.

17.04.280 - Debris.

"Debris" means discarded man-made objects that would not occur in an undeveloped stream corridor or wetland. Debris includes, but is not limited to, tires, vehicles, litter, scrap metal, construction waste, lumber, plastic or styrofoam. Debris does not include objects necessary to a use allowed by this Code, or ornamental and recreational structures. Debris does not include existing natural plant materials or natural plant materials which are left after flooding, downed or standing dead trees or trees which have fallen into protected water features.

17.04.285 - Decision-maker.

"Decision-maker" means the city entity rendering a decision on an application. For applications made under this title, the decision-maker will be either the City Engineer, Community Development Director, Public Works Director, or their designee or the Planning Commission or the City Commission or as designated by OCMC 17.50.

17.04.290 - Demolish.

"Demolish" means to raze, destroy, dismantle, deface or in any other manner cause partial or total ruin of the designated landmark or structure in an historic or conservation district.

17.04.295 - Design flood elevation.

"Design flood elevation" means the base flood elevation or twelve inches greater than the base flood elevation for residential uses, as defined by FEMA (Federal Emergency Management Agency)

17.4.300 - Development.

"Development" means an activity where a building or grading operation occurs, a material change in the use or appearance of a structure or land occurs, dividing land into two or more parcels, partitioning or subdividing of land as provided in ORS 92.010 to 92.285 or the creation or termination of an access right. Development does not refer to a capital improvement project or an activity within the right of way or public utility easement that is not associated with land or use changes occurring outside of a right of way or public utility easement, except where stated.

For the purpose of OCMC 17.26 and OCMC 17.40, "development" means any man-made change to improved or unimproved real estate, including but not limited to buildings, or other structures, mining, dredging, filling, grading, capital improvement projects, excavation or drilling operations.

For the purpose of OCMC 17.42 "development" means any man-made change to improved or unimproved real estate, including but not limited to buildings, or other structures, mining, dredging, filling, grading, paving, capital improvement projects, excavation or drilling operations.

For the purpose of OCMC 17.47, "development" means any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or other structures, sewers, streets or other structures or facilities, capital improvement projects, mining, dredging, paving, filling or grading in amounts greater than ten cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than ten percent of the existing vegetation in the water quality resource area on a lot is defined as "development."

"Development" does not include the following:

1. Stream enhancement or restoration projects approved by the City;
2. Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of this chapter; and
3. Construction on lots in subdivisions meeting the criteria of ORS 92.040(2)(1995).

For the purpose of OCMC 17.49, "development" means any man-made change defined as the construction of buildings or other structures, capital improvement projects, mining, dredging, paving, filling, grading, or site clearing, and grubbing in amounts greater than ten cubic yards on any lot or excavation. In addition, any other activity that results in the removal of more than ten percent of the existing vegetation in the water quality resource area on a lot is defined as development.

Development does not include the following:

1. Stream enhancement or restoration projects approved by the City;
2. Farming practices as defined in ORS 30.930 and farm use as defined in ORS 215.203, except that buildings associated with farm practices and farm uses are subject to the requirements of this chapter; and
3. Construction on lots in subdivisions meeting the criteria of ORS 92.040(2)(1995).

17.04.305 - Development site.

"Development site" means any lot or lots on any part of which development is taking place. A capital improvement project or an activity within the right of way that is not associated with land or use changes occurring outside of right of way or public utility easement, does not occur within a 'development site'.

17.04.310 - Direct.

"Direct" when used in connection with pedestrian or bicycle access, means the shortest practicable connection or access between two points, which in no instance should involve out-of-direction travel more than fifty percent longer than the straight line distance between two points.

17.04.315 - Director.

"Director" means the Director of Community Development, Public Works Director, or designee.

17.4.320 - Disturb.

"Disturb" means man-made changes to the existing physical status of the land, which are made in connection with development. The following uses are excluded from the definition:

1. Enhancement or restoration of the water quality resource area;
2. Planting native cover identified in the Oregon City native plant list as adopted by Oregon City Commission resolution;
3. Installation of erosion control measures pursuant to an approved erosion and sediment control plan under Chapter 17.47.

17.04.325 - District.

"District" means the area within a designated historic district, conservation district or historic corridor as provided by the zoning maps of the city.

17.04.330 - Dormer.

"Dormer" is a window vertical in a roof or the roofed structure containing such a window. A dormer is considered an alteration to a building, as it stays within the roof line and does not increase the floor area dimensions.

17.04.333 Duplex

"Duplex" means a building containing two dwelling units on one lot. The units in a duplex must share a common structural wall or a common floor/ceiling and are not primary or Accessory Dwelling Units.

17.04.335 - Dwelling unit.

"Dwelling unit" means a habitable living unit that provides basic living requirements including permanent cooking, and toilet facilities.

17.04.340 – Easement.

"Easement" means the space in, upon, above, along, across, over or under a private property for the constructing, reconstructing, operating, maintaining, inspecting, and repairing of a facility owned by someone other than the private property whereby the easement is located.

17.04.355 - Elevated building.

"Elevated building" for insurance purposes means a nonbasement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

17.04.360 - Emergency.

"Emergency" means any man-made or natural event or circumstance causing or threatening loss of life, injury to person or property, and includes, but is not limited to, fire, explosion, flood, severe weather, drought, earthquake, volcanic activity, spills or releases of oil or hazardous material, contamination, utility or transportation disruptions, and disease.

17.04.365 - Engineer.

"Engineer" means a registered professional engineer licensed by the State of Oregon (P.E.).

17.04.370 - Engineering geologist.

"Engineering geologist" means a registered professional engineering geologist licensed by the state of Oregon (CEG).

17.04.375 - Enhancement.

"Enhancement" means the process of improving upon the natural functions and/or values of an area or feature which has been degraded by human activity. Enhancement activities may or may not return the site to a pre-disturbance condition, but create/recreate processes and features that occur naturally.

17.04.380 - Entertainment centers and arcades.

"Entertainment centers and arcades" means a place open to minors where three or more mechanical or electronic amusement devices are located as either the primary or a secondary use.

17.04.385 - Erosion.

"Erosion" is the movement of soil, rocks, and other surface materials by wind, water, or mechanical means.

17.04.390 - Excavation.

"Excavation" is any act of development by which soil, earth, sand, gravel, rock or any similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated, exposed or bulldozed, including the conditions resulting therefrom.

For the purpose of Chapter 17.47 "excavation" means: any act of development by which soil or rock is cut into, dug, quarried, uncovered, removed, displaced, exposed or relocated.

17.04.405 - Exterior.

"Exterior" for the purpose of Chapter 17.40 means any portion of the outside of a landmark building, structure, or site in a district or any addition thereto.

17.04.410 - Façade.

"Façade" means the exterior wall(s) or elevation(s) of a 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 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 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 shall satisfy the certification requirements of the Office of Child Care.

17.04.425 - Federal Aviation Administration (FAA).

"Federal Aviation Administration (FAA)" means the federal regulatory agency responsible for the safety of the nation's air traffic control system, including airspace impacted by wireless communications support structures and towers.

17.04.430 - Federal Communications Commission (FCC).

"Federal Communications Commission (FCC)" means the federal regulatory agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable.

17.04.435 - Fill.

"Fill" means any material such as, but not limited to, sand, gravel, soil, rock or other natural or man-made material placed by artificial means.

17.04.440 - Final Action and Final Decision.

"Final action" and "final decision" means the city's final decision on a permit application for which there is either no appeal to another decision-maker within the City, or, if there is the possibility of a local appeal, an appeal was not timely perfected in accordance with OCMC 17.50.190. A decision is deemed to be final on the date that written notice of the decision is mailed to those entitled to notice of the decision.

17.04.445 - Flag Lot.

"Flag lot" means a lot or parcel that has a narrow frontage on a public right-of-way and a narrow accessway which serves the main body of the lot used for building.

17.04.450 - Flood or flooding.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

17.04.455 - Flood Insurance Rate Map.

"Flood Insurance Rate Map" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

17.04.460 - Flood Insurance Study.

"Flood Insurance Study" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary-floodway map, and the water surface elevation of the base flood.

17.04.465 - Flood Management Areas.

"Flood management areas" means all lands contained within the one hundred-year floodplain, flood area and floodway as shown on the Federal Emergency Management Agency Flood Insurance Rate Maps, floodway maps and the area of inundation for the February 1996 flood.

17.04.470 - Floodplain.

"Floodplain" means the land area identified and designated by the United States Army Corps of Engineers, the Oregon Division of State Lands, FEMA, or City of Oregon City that has been or may be

covered temporarily by water as a result of a storm event of identified frequency. It is usually the flat area of land adjacent to a stream or river formed by floods.

17.04.475 - Floodway.

"Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

17.04.480 - Floodway Fringe.

"Floodway fringe" means the area of the floodplain, lying outside the floodway, which does not contribute appreciably to the passage of floodwater, but serves as a retention area.

17.04.481 – Food cart, mobile.

A vendor or seller of food and/or beverages from a motorized, non-motorized or towed vehicle including a wheeled trailer or cart capable of being towed or pushed by a vehicle or by hand not within a building. Mobile food carts may require licensing from state and county health departments. Food carts may be transitory or non-transitory.

17.04.482 - Footcandle.

A unit of measurement referring to illumination incident to a single point. One footcandle is equal to one lumen uniformly distributed over an area of one square foot.

17.04.483 Footprint.

"Footprint" for the purposes of OCMC 17.54.010 means the horizontal area as seen in plan, measured from outside of all exterior walls and supporting columns. It includes dwellings, garages, carports, and accessory structures, but not trellises, patios, and areas of porch, deck, and balcony less than 30 inches from finished grade, or cantilevered covers, porches or projections which do not have a post touching the ground or ramps and stairways required for access.

17.04.485 - Front façade.

"Front façade" means the exterior wall/foundation of a building exposed to the front lot line. This shall be the most architecturally significant elevation of the building, commonly including a front door or main entrance. If the most architecturally significant elevation of the building is not exposed to the front lot line, the Community Development Director shall determine the front façade.

17.04.490 - Front lot line.

"Front lot line" means a lot line abutting a street. For corner lots, the front lot line is that with the narrowest frontage. When the lot line abutting a street is curved, the front lot line follows the curve. For a flag lot, the front lot line is the shortest lot line adjoining the pole portion of the lot including the width of the pole. See figure 17.04.490.

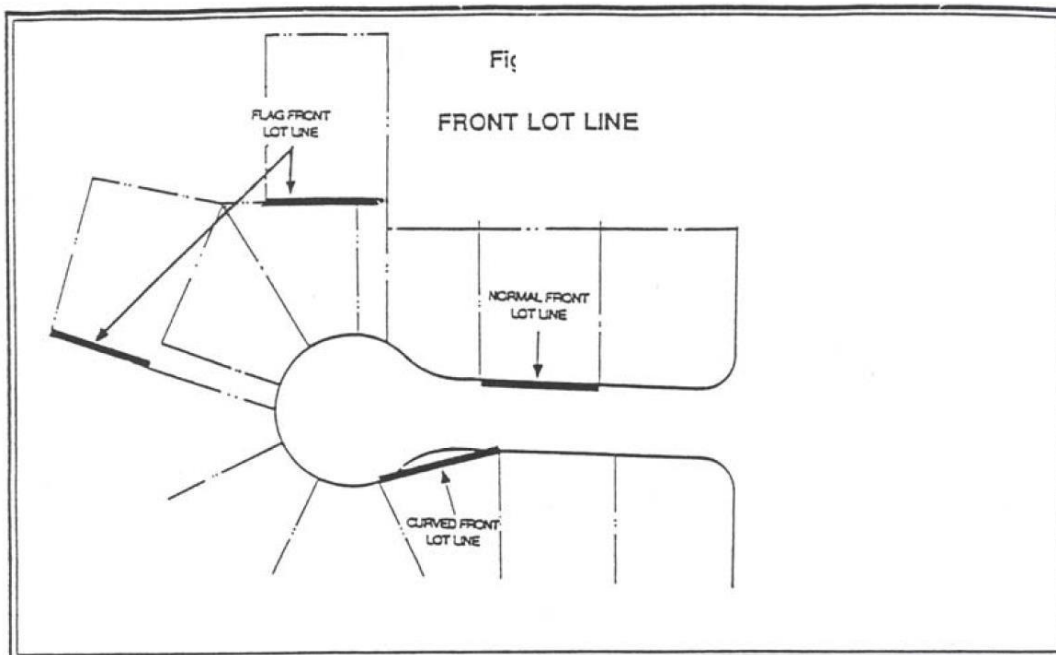


Figure 17.04.490

17.04.495 - Frontage.

"Frontage" means that portion of a parcel of property which abuts a dedicated public street or highway or an approved private way.

17.04.497 - Fully shielded or cut-off light fixture.

Any outdoor light fixture shielded in such a manner that all light emitted by the fixture is projected below the horizontal as determined by a photometric test or certified by the manufacturer. For purposes of this standard, "cut-off angle" is defined as the angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above from which no light is emitted.

17.04.500 - Garage.

"Garage" means an attached or detached structure(s), or portion thereof used or designed to be used for the parking or storage of vehicles, including carports. Garages do not include detached Accessory Dwelling Units which are not part of a detached garage.

17.04.505 - Geological assessment.

"Geological assessment" is an assessment prepared and stamped by a certified engineering geologist, detailing the surface and subsurface conditions of the site and delineating the areas of a property that might be subject to specified geologic hazards.

17.04.510 - Geologic hazard areas.

"Geologic hazard areas" mean:

1. Any area identified on the city's steep slope and landslide area map;
2. Area within two hundred feet of the crest or toe of a slope that is twenty-five percent or greater
3. Areas with a slope of twenty-five percent or more;

4. Geologic Hazards areas identified by the State of Oregon Department of Geology and Mineral Industries (DOGAMI) in Bulletin 99, Geology and Geologic Hazards of Northwestern Clackamas County, Oregon (1979);
5. Any other area that is identified by a suitably qualified geotechnical engineer or engineering geologist who is licensed in Oregon and derives his or her livelihood principally from that profession as being subject to soil instability, slumping or earth flow, high groundwater level, landslide, or seismic activity.

17.04.515 - Geologic Hazards Overlay Zone.

"Geologic Hazards Overlay Zone" means the zone mapped by the City of Oregon City that is subject to review pursuant to OCMC 17.44 as follows:

1. The following areas identified on the city's slope and geology map which represents:
 - a. Areas within fifty feet of the crest or toe of a slope that is twenty-five percent or greater, or within two hundred feet of the crest or toe of a landslide geologic units Qls and Qf identified by DOGAMI and derived from LIDAR IMS-29 and IMS-26 publications in 2009, whichever is greater;
 - b. Areas with a slope of twenty-five percent or more;
 - c. Geologic Hazards areas identified by the State of Oregon Department of Geology and Mineral Industries (DOGAMI) as landslide or debris flow fan (Qls and Qf geologic units derived from LIDAR IMS-29 and IMS-26 publications in 2009); and
 - d. Geologic Hazards areas identified in Bulletin 99, Geology and Geologic Hazards of Northwestern Clackamas County, Oregon (1979).
2. Any other area that is identified by a suitably qualified geotechnical engineer or engineering geologist who is licensed in Oregon and derives his or her livelihood principally from that profession as being subject to soil instability, slumping or earth flow, high groundwater level, and landslide.

17.04.520 - Geotechnical engineer.

"Geotechnical engineer" is a Professional Engineer, registered in the State of Oregon as provided by ORS 672.002 to 672.325, who by training, education and experience is qualified in the practice of geotechnical or soils engineering practices.

17.04.525 - Geotechnical remediation.

"Geotechnical remediation" means construction designed to increase the factor of safety against earth movement.

17.04.530 - Geotechnical report.

"Geotechnical report" is a report prepared and stamped by a Geotechnical Engineer, evaluating the site conditions and mitigation measures necessary to reduce the risks associated with development in geologically hazardous areas.

17.04.532 - Glare.

The reflection of harsh, bright light; and the physical effect resulting from high luminances or insufficiently shielded light sources in the field of view.

17.04.535 - Grading.

"Grading" is the act of excavating and filling as defined in OCMC 15.48.

17.04.540 - Gross floor area.

"Gross floor area" means the total enclosed floor area within buildings, measured in square feet, excluding basement areas used for storage or parking.

17.04.543 - Habitat.

"Habitat" means the location of natural resource areas that support fish and wildlife populations, including wetlands, riparian areas, natural areas, wooded areas, areas of significant trees or vegetation, and areas designated as being within the Natural Resource Overlay District.

17.04.545 - Half street.

"Half street" means a portion of the width of a full street, usually along the edge of a subdivision.

17.04.550 - Height.

"Height of building" means a vertical distance measured from the average finished grade elevation on the street-facing elevation to:

1. one-half the vertical distance between the eaves and the highest ridge for a gable, hip or gambrel roof,
2. the top of the roof for flat roofs,
3. the deck lines for mansard roofs or
4. the top of the parapet for buildings with parapets that completely surround the perimeter of a roof.

Roof structures needed to operate and maintain the building on which they are located such as chimneys, flues, stacks, fire escapes, gas holders, elevator enclosures, ventilators, skylights, solar panels, water towers and tanks, and similar are exempt from the building height measurement. Additional decorative and functional elements such as flag poles, partially enclosed parapets and building entry features, steeples and bell towers, carillons, monuments, cupolas, television aerials, broadcasting and microwave transmitting and relay towers, electric transmission line towers, and electric substation structures are also exempt from the building height measurement.

Except that, for buildings within the Flood Management Overlay District subject to Chapter 17.42, height shall be measured from the design flood elevation or average finished grade at front of the structure, whichever is higher. For the purpose of Chapter 17.80, "height" shall mean the distance measured from the original grade at the base of the wireless communication facility to the highest point on the wireless communication facility, including the antenna(s) and lightning rod(s).

17.04.555 - Heritage Tree.

"Heritage Tree" is a tree or stand of trees that is of landmark importance to the City of Oregon City due to age, size, species, horticultural and ecological value or historical association.

17.04.560 - Heritage Grove.

"Heritage Grove" is at least two heritage trees separated by no more than twenty feet on a property or properties.

17.04.562 - Highly constrained residential lot.

A residential vacant lot of record that has less than thousand square feet of buildable area, with minimum dimensions of fifty feet by fifty feet, remaining outside the Natural Resource Overlay District.

17.04.564 - Highly constrained commercial lot.

A commercial or industrially zoned lot of record that has more than seventy-five percent of its area covered by the Natural Resource Overlay District.

17.04.565 - Historical significance.

"Historical significance" means that the structure of district:

1. Has character, interest or value, as part of the development, heritage or cultural characteristics of the city, state or nation;
2. Is the site of an historic event with an effect upon society;
3. Is identified with a person or group of persons who had some influence on society; or
4. Exemplifies the cultural, political, economic, social or historic heritage of the community.

17.04.570 - Historic corridor.

"Historic corridor" means that portion of a parcel of land that is a part of a designated linear historic feature such as the route of the Oregon Trail-Barlow Road.

17.04.575 - Historic site.

"Historic site" means the structure and the property surrounding a landmark, a structure in an historic district, or a designated structure in a conservation district.

17.04.580 - Home occupation.

"Home occupation" means an occupation carried on solely by the resident or residents of a dwelling unit as a secondary use in accordance with 17.54.120.

17.04.585 - Hotel.

"Hotel" means a building which is designed or used to offer lodging, with or without meals, for compensation, primarily for overnight lodging.

17.04.586 - Impervious surface.

Any nonvertical surface artificially covered or hardened so as to prevent or impede the percolation of stormwater into the soil, including but not limited to roof tops excepting eaves, swimming pools, paved or graveled roads, and walkways or parking areas and excluding landscaping, surface water retention/detention facilities, access easements serving neighboring property, and driveways.

17.04.587 - Incandescent.

A common form of artificial light in which a filament is contained in a vacuum and heated to brightness by an electric current.

17.04.590 - Infrastructure provider.

"Infrastructure provider" for the purposes of Chapter 17.80 means an applicant whose proposal includes only the construction of new support towers or auxiliary structures to be subsequently utilized by service providers.

17.04.595 - Institutional development.

"Institutional development" includes all public, semi-public and private community facilities and uses, including government office and maintenance facilities, educational facilities, research institutions, correctional institutions, museums, libraries, stadiums, hospitals, residential care facilities, auditoriums and convention or meeting halls, churches, parks and public recreational facilities, automobile parking structures, and other similar facilities and uses.

17.04.600 - Interior parking lot landscaping.

"Interior parking lot landscaping" means landscaping located inside the surfaced area used for on-site parking and maneuvering.

17.04.603 Internal conversion (for existing single-family detached residential units)

"Internal conversion" means conversion of an existing single-family residential unit built at least 20 years prior to the date of the proposed conversion into two or more dwelling units in accordance with OCMC 17.20.030.

17.04.605 - Invasive non-native, nuisance, prohibited or noxious vegetation.

"Invasive non-native," "nuisance," "prohibited" or "noxious vegetation" means plant species that have been introduced and, due to aggressive growth patterns and lack of natural enemies in the area where introduced, spread rapidly into native plant communities, or which are listed as invasive, nuisance, prohibited or noxious plants on the Oregon City Nuisance Plant List, or by the Oregon Department of Agriculture, Clackamas Soil and Water District, or Portland Plant List.

17.04.610 - Land division.

"Land division" means any partition or subdivision.

17.04.615 - Landscaping.

"Landscaping." Site improvements which include lawn, garden, groundcover, trees, plants and other natural and decorative features, including but not limited to, patios or plazas open to the public or open commonly to residents and street furniture and walkways which are contiguous and integrated with plant material landscaped areas. The verification of plant materials requiring specific characteristics can be achieved by any of the following methods:

1. Description in Sunset Western Garden Book (Editor Sunset Books, 2012 or later edition), or
2. The Oregon City Native Plant List;
3. City of Portland Native Plan List;
4. Metro Native Plant List;
5. By an appendix, definition, or other reference in the Zoning Code, or
6. By specific certification by a licensed landscape architect.

17.04.620 - Landscape area.

"Landscape area" means land set aside and used for planting of grass, shrubs, trees or similar living plants.

17.04.625 - Landslide.

"Landslide" means the downslope movement of soil, rocks, or other surface matter on a site. Landslides may include, but are not limited to, slumps, mudflows, earthflows, debris flows, rockfalls and the source areas for above.

17.04.630 - Lattice tower.

"Lattice tower" is a support tower characterized by an open framework of lateral cross members that stabilize the tower.

17.04.635 - Legislative action.

"Legislative action" means any final decision of the city that approves or denies a request to amend the city's land use regulations, comprehensive plan or related maps and does not pertain to a particular property or small set of properties.

17.04.637 - Licensee representative.

"Licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that the person acts in a representative capacity.

17.04.640 - Limited land use application.

"Limited land use application" means an application for any use where the decision is based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including subdivision or site plan and design review or any other application which is processed pursuant to a Type II proceeding as provided in this chapter.

17.04.645 - Live/work dwelling.

"Live/work dwelling" a dwelling in which a business is designed to be operated on the ground floor. The ground floor commercial, personal service, or office space has visibility, signage and access from the primary street.

17.04.650 - Loading space.

"Loading space" means an off-street space, having a paved surface, within a building or on the same lot with a building, for the temporary parking of a commercial vehicle or truck while loading or unloading merchandise or materials and which has direct access to a street or alley.

17.04.655 - Local street.

"Local street" means any street so designated in the City's Transportation System Plan. Typically, a local street is a public street that serves abutting lands, is designed to carry a minimal amount and weight of traffic.

17.04.660 - Lot.

"Lot" and "legal lot" mean a single unit of land created by a subdivision which, at the time of creation, complied with all procedural and substantive requirements of any applicable local, state or federal law.

17.04.665 - Lot, corner.

"Corner lot" means a lot abutting upon two or more streets at their intersection.

17.04.670 - Lot coverage.

"Lot coverage" means the area of a lot covered by the footprint of all structures two hundred square feet or greater (excluding decks and porches), expressed as a percentage of the total lot area.

17.04.675 - Lot, depth.

"Lot depth" means the distance measured from the mid-point of the front lot lines to the mid-point of the opposite, usually rear lot line and generally at approximately right angles to the lot width.

17.04.680 - Local floodplain administrator.

"Local floodplain administrator" means the city's building official.

17.04.685 - Lot, interior.

"Interior lot" means a lot other than a corner lot.

17.04.690 - Lot line adjustment.

"Lot line adjustment" means a relocation or elimination of all or a portion of the common property line between abutting properties that does not create an additional lot or parcel.

17.04.695 - Lot of record.

"Lot of record" means a lot or parcel which has been legally recorded in the Office of the County Recorder by deed or contract of sale prior to the enactment of an ordinance or regulation by reason of which the lot or parcel no longer meets the dimensional or area requirements of the City.

17.04.700 - Lot, width.

"Lot width" means the perpendicular distance measured between the midpoints of the two principal opposite side lot lines and generally at approximately right angles to the lot depth.

17.04.705 - Lowest floor.

"Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of this title found at OCMC 17.42.160.E.(4). or (5).

17.04.707 - Low impact development standard.

Any construction technique approved by the City Engineer that is designed to provide on-site capture, treatment and infiltration of stormwater as a means to improve water quality, reduce the amount of impervious surface, and/or provide habitat benefits on a development site.

17.04.710 - Major modification.

"Major modification" means any of the following changes from a previously approved permit, except for changes eligible for a Type I review, requiring the application to return through the same process as the original review:

1. For subdivisions or planned unit developments, an increase in the total number of dwelling units by ten percent or more, an increase in the number of multiple-family dwellings by more than ten percent, or a reduction in the amount of landscaping, open space or land reserved for a protected feature of ten percent or more;
2. For design review or conditional use permits for mixed-use or commercial developments, an increase in the area of commercial space by more than ten percent;
3. For any site plan or design review approval, any change not eligible for a Type I Minor Site Plan and Design Review, including the relocation of buildings, streets, access points onto the existing public right-of-way, utility easements, parking lot expansions, or other site improvements away from the previously approved general location;
4. For any prior approval, an increase in the amount of impervious surface on hillsides or unstable soils subject to regulation under City Code Chapter 17.44 by ten percent or more; or
5. Any change that renders the prior approved permit incompatible with surrounding lands or development in noncompliance with any of the conditions of approval or approval criteria.

17.04.712 - Major transit stop.

"Major transit stop" means transit centers, high capacity transit stations, major bus stops, inter-city bus passenger terminals, inter-city rail passenger terminals, and bike-transit facilities as shown in the regional transportation plan.

17.04.715 - Main building entrance.

"Main building entrance" means a primary entrance to a building, intended for use by residents, employees, customers, clients, visitors, messengers and members of the public.

17.04.720 - Major public improvements.

"Major public improvements" means the expenditure of public funds or the grant of permission by a public body to undertake change in the physical character of lands or the making of public improvements within a district, except for the repair or maintenance of public or private improvements within a district.

17.04.725 - Manager.

"Manager" means the City Manager or the City Manager's designated representative.

17.04.730 - Manufactured home.

"Manufactured home" means a structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for a permanent residential purpose and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. The term "manufactured home" does not include a "recreational vehicle."

17.04.735 - Manufactured home park or subdivision.

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

17.04.740 - Map.

"Map" means a final diagram, drawing or other graphical representation concerning a partition or subdivision.

17.04.741.010 - Marijuana.

"Marijuana" means the plant cannabis family cannabaceae, any part of the plant cannabis family cannabaceae and the seeds of the plant cannabis family cannabaceae. "Marijuana" does not include industrial hemp, as defined in state law.

17.04.741.020 - Marijuana business.

"Marijuana business" means (1) any business licensed by the Oregon Liquor Control Commission to engage in the business of producing, processing, wholesaling, or selling marijuana or marijuana items, or (2) any business registered with the Oregon Health Authority for the growing, processing, or dispensing of marijuana or marijuana items.

17.04.741.030 - Marijuana items.

"Marijuana item" means marijuana, cannabinoid products, cannabinoid concentrates and cannabinoid extracts.

17.04.741.040 - Marijuana laboratory (laboratories).

"Marijuana laboratory (laboratories)" means an entity which tests or researches marijuana products for THC levels, pesticides, mold, etc. pursuant to applicable Oregon Administrative Rules.

17.04.741.050 - Marijuana licensee.

"Marijuana licensee" means a person who holds a business license issued by the city to engage in a marijuana business in accordance with this chapter.

17.04.741.060 - Marijuana processor (processing).

"Marijuana processor (processing)" means an entity licensed by the Oregon Liquor Control Commission or Oregon Health Authority to process marijuana. This includes the manufacture of concentrates, extracts, edibles and/or topicals.

17.04.741.070 - Marijuana producer (production).

"Marijuana producer (production)" means an entity licensed by the Oregon Liquor Control Commission or the Oregon Health Authority to manufacture, plant, cultivate, grow or harvest marijuana. This is the only license able to cultivate marijuana.

17.04.741.080 - Marijuana retailer.

"Marijuana retailer" means an entity licensed by the Oregon Liquor Control Commission or Oregon Health Authority to sell marijuana items to a consumer in this state.

17.04.741.090 - Marijuana wholesaler.

"Marijuana wholesaler" means an entity licensed by the Oregon Liquor Control Commission or Oregon Health Authority to purchase items in this state for resale to a person other than a consumer. This means an entity that buys and sells at wholesale.

17.04.742 - Medical marijuana dispensary.

"Medical marijuana dispensary" means an entity registered with the Oregon Liquor Control Commission or Oregon Health Authority to transfer marijuana.

17.04.743 - Membrane or fabric covered storage area.

An area used for storage covered by a tarp or fabric membrane or that is either attached to a rigid framework, natural feature or some other structure, or a metal-sided cargo container. It is not intended to include the weather proofing of a vehicle, boat or other individual item by a tarp or other type of covering as long as the covering is attached directly to and covers only the particular item.

17.04.745 - Metro.

"Metro" means the regional government of the Portland metropolitan area and the elected Metro Council as the policy-setting body of the government.

17.04.746 - Metro ESEE Analysis.

"ESEE" means Economic, Social, Environmental and Energy (ESEE) analysis and is the process by which Metro determined whether to allow, limit, or prohibit activities in the city's significant natural resource sites.

17.04.750 - Micro cell.

"Micro cell" for the purposes of Chapter 17.80 means a wireless communications facility consisting of an antenna that is either: (a) four feet in height and with an area of not more than five hundred

eighty square inches; or (b) if a tubular antenna, no more than four inches in diameter and no more than six feet in length.

17.04.755 - Minor modification.

"Minor modification" means any changes from a previously approved permit which are less than a major modification.

17.04.760 - Mitigation.

"Mitigation" means the reduction of adverse effects of a proposed project by considering, in the following order:

1. Avoiding the impact altogether by not taking a certain action or parts of an action;
2. Minimizing impacts by limiting the degree or magnitude of the action and its implementation;
3. Rectifying the impact by repairing, rehabilitating or restoring the affected environment;
4. Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action by monitoring and taking appropriate measures; and
5. Compensating for the impact by replacing or providing a comparable substitute.

17.04.765 - Mitigation measure.

"Mitigation Measure" is an action designed to reduce project-induced geologically hazardous area impacts.

17.04.766 - Mobile vendor.

A provider, vendor or seller of merchandise and/or services, etc. from a motorized or towed vehicle including a wheeled trailer capable of being towed by a vehicle. For the exclusive mobile vending of food, see definition of "food carts, mobile".

17.04.770 - Monopole.

"Monopole" means a support tower composed of a single upright pole, engineered to be self-supporting, and used to support one or more antenna(s) or array(s). A monopole does not include towers requiring guy wires or lattice cross supports.

17.04.775 - Motel.

"Motel" means a building or series of buildings in which lodging is offered for compensation primarily for overnight lodging which is distinguished from a hotel primarily by reason of providing direct independent access to and adjoining parking for each rental unit.

17.04.780 - Multifamily residential.

"Multifamily residential" is a structure or structures located on one lot and containing five or more total dwelling units in any vertical or horizontal arrangement. Individual units do not have to be structurally attached. Multifamily developments, known as apartments and condominiums, may include structures that are similar in form to townhouses, cluster housing, duplexes, or single-family dwellings.

17.04.785 - Native vegetation.

"Native vegetation" means any vegetation listed on the Oregon City native plant list as adopted by Oregon City Commission resolution.

17.04.790 - Natural location.

"Natural location" means the location of those channels, swales, and other non-man-made conveyance systems as defined by the first documented topographic contours existing for the subject property either from maps or photographs, or such other means as appropriate.

17.04.795 - Nearby.

"Nearby," when used in connection with pedestrian or bicycle access, means uses within one-quarter mile distance which can reasonably be expected to be used by pedestrians, and uses within two miles distance which can reasonably be expected to be used by bicyclists.

17.04.800 - Neighborhood activity center.

"Neighborhood activity center" refers to land uses which attract or are capable of attracting a substantial amount of pedestrian use. Neighborhood activity centers include, but are not limited to, parks, schools, retail store and service areas, shopping centers, recreational centers, meeting rooms, theaters, museums and other pedestrian oriented uses.

17.04.805 - Neighborhood Association.

"Neighborhood Association" means a group whose membership is recognized by the City, open to residents, property owners and owners of businesses located in the neighborhood. This group makes comments and recommendations on problems, policies and projects in the neighborhood.

17.04.808 – Net density.

"Net density" means the number of dwelling units divided by the net developable area, as measured in acres.

Residential Density Calculation Example:

Zone: R-5

Unit type: Single Family Detached

Gross site area: 4.84 acres = 210,830 sq. ft. (80% is developable, 20% is right-of-way, slopes etc.)

210,830 sq. ft. X .8 = 168,664 sq. ft.

Net developable area: 168,664 sq. ft./43,560 = 3.87 acres

Density (See Density Standards table for Medium Density District):

Minimum Density = 8.7 du/acre X 3.87 acres = 33.68 (round up) = 34 units

Maximum Density = 12.4 du/acre X 3.87 acres = 47.98 (round up) = 48 units

17.04.810 - Net developable area.

"Net developable area" means the area of a parcel of land or the aggregate of contiguous parcels under the same ownership remaining after deducting any portion of the parcel or aggregate of parcels with one or more of the following characteristics:

1. Elevation within the one hundred-year floodplain, as identified on the Federal Emergency Management Agency Flood Insurance Rate Maps;
2. The area within an underlying Natural Resource Overlay District (NROD) governed by OCMC 17.49 that is indicated on the adopted NROD map or which has been otherwise delineated pursuant to OCMC 17.49;
3. Steep slopes exceeding thirty-five percent. Applicant may make a request for the Community Development Director to determine whether to make further adjustments for slopes equal to or above twenty-five percent per OCMC 17.44.060.H.;
4. Open space;
5. Public facilities and rights-of-way;

6. Upon approval of the Community Development Director, any lands where development of structures requiring a building permit is prohibited due to an easement and is similar in nature to items 1—5.

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.

17.04.815 - New construction.

"New construction" means structure for which the "start of construction" commenced on or after the effective date of the ordinance codified in this title.

For the purposes of Chapter 17.40, "new construction" means an additional new building or structure separate from the existing building mass that is larger than two hundred square feet on all properties located within a Historic Overlay District. Any building addition that is thirty percent or more in area (be it individual or cumulative) of the original structure shall be considered "new construction."

17.04.820 - New manufactured home park or subdivision.

"New manufactured home park or subdivision" means a manufactured home park subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the ordinance codified in this chapter.

17.04.825 - Nonconforming use.

"Nonconforming use" means a use which lawfully occupied a building or land at the time this title or subsequent amendments became effective and which does not conform with the use regulations of the district in which it is located.

17.04.830 - Non-final decision.

"Non-final decision" means any decision by the Community Development Director, Historic Review Board or Planning Commission which is not a final decision but is appealable to another decision maker within the City.

17.04.840 - Nursery, day or child care center.

"Nursery, day or child care center" means a commercial enterprise where more than five children are cared for during the day, including a kindergarten.

17.04.845 - Office.

"Office" means a place where a particular kind of business is transacted or a service is supplied.

17.04.850 - One hundred-twenty-day period.

"One hundred-twenty-day period" means the one hundred-twenty-day period within which ORS 227.178 requires the city to take final action on a complete application.

17.04.855 - Open space.

"Open space" means land that is undeveloped and that is planned to remain so indefinitely. The term encompasses parks, forests and farmland. It may also refer only to land zoned as being available to the public, including playgrounds, watershed preserves and schools.

17.04.860 - Ordinary mean high water line.

"Ordinary mean high water line" means, as defined in OAR 141-82-005, the line on the bank or shore to which water ordinarily rises in season; synonymous with mean high water (ORS 274.005).

17.04.865 - Ordinary mean low water line.

"Ordinary mean low water line" means, as defined in OAR 141-82-005, the line on the bank or shore to which water ordinarily recedes in season; synonymous with mean low water (ORS 274.005).

17.04.870 - Owner or property owner.

"Owner or property owner" means the person who is the legal record owner of the land, or where there is a recorded land sale contract, the purchaser thereunder.

17.04.875 - Overlay district.

"Overlay district" means a special zoning district, the restrictions and conditions of which shall be in addition to such restrictions and conditions as may be imposed in the underlying zone.

17.04.880 - Parcel.

"Parcel" and "legal parcel" mean a single unit of land created by a partition or subdivision which, at the time of creation, complied with all procedural and substantive requirements of any applicable local, state or federal law.

17.04.885 - Parking area, public.

"Public parking area" means an open off-street area used for the temporary parking of more than three automobiles and available for public use, with or without charge or as an accommodation for clients or customers.

17.04.890 - Parking lot.

"Parking lot" means off-street parking spaces.

17.04.895 - Parking space.

"Parking space" means an unobstructed off-street area having an all-weather surface for the temporary parking or storage of one automobile.

17.04.900 - Partition/partition land.

"Partition" or to "partition land" means to divide an area or tract of land into two or three parcels within a calendar year when such area or tract of land exists as a unit or contiguous units of land under single ownership at the beginning of such year. "Partition land" does not include:

1. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
2. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance;
3. The division of land resulting from the recording of a subdivision.

4. A sale or grant by a person to a public agency or public body for state highway, county road, city street or other right-of-way purposes provided that such road or right-of-way complies with the Oregon City Comprehensive Plan, applicable state statutes, and does not create additional parcels.

17.04.905 - Partition plat.

"Partition plat" means and includes a final map and other writing containing all the descriptions, locations, specifications, provisions and information concerning a partition.

17.04.907 - Pedestrian scale lighting.

Lighting fixtures that are dimensionally smaller than those intended to accommodate automobile traffic flow and buffering and which are intended to provide adequate illumination of areas used by pedestrians or bicyclists for security, recreational or commercial purposes. In general pedestrian scale lighting is no higher than twelve feet tall.

17.04.910 - Pedestrian walkway.

"Pedestrian walkway" means a hard surfaced facility for pedestrians within a development or between developments, distinct from surfaces used for motor vehicles. A pedestrian walkway is distinguished from a sidewalk by its location on private property outside the public right-of-way and from a pedestrian/bicycle accessway by the function it serves.

17.04.915 - Perimeter parking lot landscaping.

"Perimeter parking lot landscaping" means the five-foot wide landscaped planter strip located on the perimeter of all parking lots located adjacent to the right-of-way and/or adjoining properties. Parking lots are defined as the surfaced area used for on-site automobile parking and maneuvering.

17.04.920 - Permit.

"Permit" means any form of quasi-judicial approval relating to the use of land rendered by the City under OCMC 16 or 17, including subdivisions, partitions, lot line adjustments and abandonments, zone changes, plan amendments, conditional use permits, land use and limited land use decisions, and expedited land divisions. Permit does not include any City decision relating to system development charges under Chapter 3.20.

17.04.923 - Pervious.

"Pervious" refers to any material or surface that permits full or partial absorption of stormwater into previously unimproved land.

17.04.925 - Planning Division.

"Planning Division" means the Planning Division of the City of Oregon City.

17.04.930 - Planter (or planting) strip.

"Planter (or planting) strip" means an area for landscaping and street trees within the public street right-of-way, usually located between the curb and sidewalk. Also known as a parking strip or tree lawn.

17.04.935 - Plat.

"Plat" means a map of the lots in a proposed partition or subdivision, drawn to scale and which includes all of the information required by the applicable provisions of OCMC 16 and 17.

17.04.937 - Pollutant.

"Pollutant" means the presence in the outdoor atmosphere, ground, or water of any substances, contaminants, noise, or man-made or man-induced alteration of the chemical, physical, biological, or radiological integrity of air or water, in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal, or plant life, or property, or unreasonably interfere with the enjoyment of life or property.

17.04.940 - Porch.

"Porch" means a roofed open unenclosed area, which may be screened, attached to or part of and with direct access to or from a building.

17.04.945 - Practicable.

"Practicable" means available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.

17.04.950 - Preliminary plan or plat.

"Preliminary plan" or "plat" mean a preliminary subdivision plat or partition plat as appropriate.

17.04.955 - Principal dwelling unit.

"Principal Dwelling Unit" means the primary residence for a particular lot.

17.04.960 - Private street.

"Private street" means a privately owned and maintained street or accessway. The creation of private streets shall include emergency access and utility easements and reciprocal easements for all properties intended to use the accessway. Private streets shall be designed and constructed to the standards required by the city, but those standards may be different than would apply to public streets.

17.04.965 - Property line.

"Property line" means the division or boundary between two legal lots or parcels. The property line may sometimes be the same line as the right of way line even though right of way is not a lot or parcel.

17.04.970 - Protected water features.

"Protected water features" shall include:

1. Title 3 wetlands;
2. Rivers and perennial and intermittent streams;
3. Springs which feed stream and wetlands and have year-round flow; and
4. Natural lakes.

17.04.973 - Public garage.

"Public garage" means any automobile repairs and servicing when enclosed within the building.

17.04.975 - Public recycle drop/receiving center.

"Public recycle drop/receiving center" means a facility that receives and temporarily stores separated recyclable waste materials including glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil. Maximum storage for each type of separated recyclable waste shall not exceed six hundred cubic feet. Oil storage shall not exceed six hundred gallons. Preparation of separated materials shall be limited to nonmechanical methods such as baling and glass breaking.

17.04.980 - Public recycle warehouse.

"Public recycle warehouse" means a facility that receives and stores and prepares for transport separated recyclable waste material including glass, scrap paper, corrugated paper, newspaper, tin cans, aluminum, plastic and oil. Preparation of separated materials, including baling, compacting and glass breaking, may be part of this facility.

17.04.982 - Public street.

"Public street" means a publicly maintained street or accessway under the jurisdiction of a governmental entity.

17.04.985 - Public utilities and services.

"Public utilities and services" means facilities for providing electric power, communication, water, sewers and transportation.

17.04.986 – Public Utility Easement.

"Public Utility Easement" means an easement that allows a utility the right to use and access specific areas of another's property for constructing and maintaining gas, electric, telecommunication, fiberoptic, water, and sewer lines.

17.04.987 – Public Works Director

"Public Works Director" means the Director of the Public Works Department for the City, their duly authorized representative(s), or the City's duly authorized representative(s) as designated by the City Manager.

17.04.990 - Quasi-judicial.

"Quasi-judicial" means any final decision of the City that applies the provisions of OCMC 16 or 17, in response to an application, that pertains to a specific property or small set of properties and which is legally required to result in a decision by the City.

17.04.995 - Radio frequency (RF) energy.

"Radio frequency (RF) energy" means the energy used by cellular telephones, telecommunications facilities, and other wireless communications devices to transmit and receive voice, video, and other data information.

17.04.1000 - Rear lot line.

"Rear lot line" means a lot line that is opposite to and more distant from the front lot line. In the case of a corner lot, the Community Development Director shall determine the rear lot line. In the case of an irregular or triangular shaped lot, an imaginary lot line ten feet in length shall be drawn within the lot parallel to and at the maximum distance from the front lot line. A lot line abutting an alley is a rear lot line.

17.04.1005 - Record.

"Record" means the public record compiled for each quasi-judicial and legislative action and includes the written minutes of all public hearings, audio tape recordings, if any, of the public meetings, the application and all materials duly submitted by the applicant, all documents, evidence, letters and other materials duly submitted by any party to the decision-making proceeding, staff reports, public notices, and all decisions rendered by city decision-makers.

17.04.1010 - Recreational vehicle.

"Recreational vehicle" means a vehicle which is:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily as temporary quarters for recreational, camping, travel or seasonal use and not for use as a dwelling.

17.04.1015 - Religious institution.

A church or place of worship or religious assembly with related facilities such as the following in any combination: rectory or convent, private school, meeting hall, offices for administration of the institution, licensed child or adult daycare, playground or cemetery.

17.04.1020 - Reserve strip.

"Reserve strip" means a parcel of land, usually one foot in width, running the length of a half-street parallel to the center line or running across the end of a street at right angles to the center line which, when deeded to the city, prevents the abutting property owner from using the street for access to the abutting property without first making the appropriate dedication from his/her land.

17.04.1021 – Residence.

A structure or part of a structure containing dwelling units or rooming units, including single-family detached and attached dwelling units, duplexes, townhomes or townhouses, three-four plexes, accessory dwelling units, multi-family dwelling units, manufactured homes, and boarding or rooming houses. Residences do not include: such transient accommodations as transient hotels, shelters, bed and breakfasts, motels, tourist cabins, or trailer courts; dormitories, fraternity or sorority houses; in a mixed-use structure, that part of the structure used for any nonresidential uses, except accessory to residential uses; or recreational vehicles.

17.04.1025 - Residential facility.

"Residential facility" means a residential care, residential training or residential treatment facility licensed or registered by or under the authority of the state licensing agency, as defined in ORS 443.400, under ORS 443.400 to 443.460 or licensed by the State Office for Services to Children and Families under ORS 418.205 to 418.327 which provides residential care alone or in conjunction with treatment or training or a combination thereof for six to fifteen individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential facility.

17.04.1030 - Residential home.

"Residential home" means a residential treatment or training or an adult foster home licensed by or under the authority of the state licensing agency, as defined in ORS 443.400, under ORS 443.400 to 443.825, a residential facility registered under ORS 443.480 to 443.500 or an adult foster home licensed under ORS 443.705 to 443.825 which provides residential care alone or in conjunction with treatment or training or a combination thereof for five or fewer individuals who need not be related. Staff persons required to meet licensing requirements shall not be counted in the number of facility residents, and need not be related to each other or to any resident of the residential home.

17.04.1035 - Residential zone.

"Residential zone" shall include any of the following zoning districts: R-10 single-family dwelling district, R-8 single-family dwelling district, R-6 single-family dwelling district, R-5 dwelling district, R-3.5 Dwelling District and R-2 Dwelling District.

17.04.1040 - Resource versus facility.

"Resource" versus "Facility" means the distinction being made is between a "resource," a functioning natural system such as a wetland or stream; and a "facility" which refers to a created or constructed structure or drainage way that is designed, constructed and maintained to collect and filter, retain, or detain surface water runoff during and after a storm event for the purpose of water quality improvement.

17.04.1045 - Restoration.

"Restoration" for the purposes of OCMC17.49 means the process of returning a disturbed or altered area or feature to a previously existing natural condition. Restoration activities reestablish the structure, function and/or diversity to that which occurred prior to impacts caused by human activity. Also see "revegetation" and "mitigation".

17.04.1047 - Restrictive covenant.

"Restrictive covenant" means a restriction on the use of a lot or parcel of land that is set forth in the deed and recorded with the county recorder. It is binding on subsequent owners and may be used to enforce the preservation of trees, wetlands or other natural resources on the property. Also known as "Deed Restriction."

17.04.1048 - Revegetation.

"Revegetation" means the re-establishment of vegetation on previously disturbed land, for the purpose of restoration and mitigation measures for a disturbed natural area or buffer zone. See also "Restoration."

17.04.1050 - Retail store.

"Retail store" means a business establishment where goods are sold in small quantities to the ultimate consumer.

17.04.1055 - Right-of-way.

"Right-of-way" means the area between boundary lines of a public street, public alley or other public accessway. Right of way is not a parcel, lot, or considered real estate or real property.

17.04.1060 - Riparian.

"Riparian" means those areas associated with streams, lakes and wetlands where vegetation communities are predominately influenced by their association with water.

17.04.1065 - Routine repair and maintenance.

"Routine repair and maintenance" means activities directed at preserving an existing allowed use or facility, without expanding the development footprint or site use.

17.04.1070 - School, commercial.

"Commercial school" means a building where instruction is given to pupils in arts, crafts or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

17.04.1075 - School, primary, elementary, junior high or high.

"School, primary, elementary, junior high or high" shall include public or private schools, but not nursery school, kindergarten or day care centers, except when operated in conjunction with a school.

17.04.1080 - School, private.

"Private school" means a school not supported by taxes.

17.04.1085 - School, public.

"Public school" means a primarily tax supported school controlled by a local governmental authority.

17.04.1090 - Screening.

"Screening" means for the purposes of OCMC 17.80 means to effectively obscure to a minimum height of six feet the view of the base of a wireless communication facility.

17.04.1093 - Security Lighting.

Lighting intended to reduce the risk of personal attack, discourage intruders, vandals, or burglars, and to facilitate active surveillance of an area by designated surveillance personnel or by remote camera.

17.04.1095 - Sediment.

"Sediment" means any soil, sand, dirt, dust, mud, rock, gravel, refuse or any other organic or inorganic material that is in suspension, is transported, has been moved or is likely to be moved by erosion. Sedimentation is the process by which sediment is removed from its site of origin by soil erosion, suspension in water, and/or wind or water transport.

17.04.1100 - Self-supporting.

"Self-supporting" means the independent support of itself or its own weight.

17.04.1105 - Service station.

"Service station" means an establishment where bulk sales, fuels, oils or accessories for motor vehicles are dispensed, sold or offered for retail sale and where minor motor vehicle repair service is available.

17.04.1110 - Setback.

"Setback" means the minimum distance by which the footprint of all buildings or structures shall be separated from a lot line.

17.04.1115 - Shade.

"Shade" means a shadow cast by the shade point of a structure or vegetation when the sun is at an altitude of 21.3 degrees and an azimuth ranging from 22.7 degrees east and west of true south.

17.04.1125 - Sidewalk, curb-tight (aka attached sidewalk).

"Curb-tight or attached sidewalk" refers to a sidewalk that is attached and not separated from the curb and gutter of a street by a planter strip, tree lawn or other landscaping.

17.04.1127 - Sidewalk, setback (aka detached sidewalk).

"Setback" or "Detached sidewalk" refers to a sidewalk that is separated from the curb and gutter of a street by a planter strip, tree lawn or other landscaping. Setback sidewalks may be placed fully or partially within easements on private property.

17.04.1130 - Significant negative impact.

"Significant negative impact" for the purpose of Chapter 17.49 means an impact that affects the natural environment, considered individually or cumulatively with other impacts on the water quality resource area, to the point where existing water quality functions and values are degraded.

17.04.1140 - Single-family detached residential units.

"Single-family detached residential units" means one principal or primary dwelling unit per lot that is freestanding and structurally separate from other dwelling units on the site, except Accessory Dwelling Units. This includes manufactured homes.

17.04.1135 - Single-family attached residential units.

"Single-family attached residential units" means two or more dwelling units attached side by side with some structural parts in common at a common property line and located on separate and individual lots. Single-family attached residential units are also known as townhouse, townhome or rowhouse.

17.04.1143 – Skyway or skybridge, pedestrian.

"Pedestrian skyway" or "sky bridge" is an elevated walkway exclusively for pedestrian or bicycle traffic, connecting two or more structures, that passes over a right-of-way or open areas such as alleys, plazas and other similar public amenity areas. Such structures may be enclosed or open to the elements.

17.04.1145 - Slope.

"Slope" is an inclined earth surface, the inclination of which is expressed denoting a given rise in elevation over a given run in distance. A forty percent slope, for example, refers to a forty-foot rise in elevation over a distance of one hundred feet. A one hundred percent slope equals a forty-five-degree angle. Slopes are measured across a horizontal rise and run calculation within any horizontal twenty-five foot distance. "Slope" shall be calculated as follows:

1. For lots or parcels individually or cumulatively greater than ten thousand square feet in size, between grade breaks, obtain the vertical distance, divide by the horizontal distance and multiply by one hundred. The horizontal distance to be used in determining the location of grade breaks shall be fifty feet;
2. For lots or parcels ten thousand square feet or smaller in size, obtain the vertical distance across the lot or parcel, divide by the horizontal distance and multiply by one hundred;

The resulting number is the slope expressed as a percentage.

17.04.1150 - Solid waste processing facility.

"Solid waste processing facility" means a place or piece of equipment whereby mixed solid waste is altered in form, condition or content by methods or systems such as, but not limited to, shredding, milling or pulverizing.

17.04.1155 - Solid waste transfer facility.

"Solid waste transfer facility" means a waste collection and disposal system between the point of collection and a processing facility or a disposal site.

17.04.1160 - South or south facing.

"South" or "south facing" means true south, or twenty degrees east of magnetic south.

17.04.1165 - Stable, private.

"Private Stable" means a detached accessory building for the keeping of horses owned by occupants of the premises and which are not kept for remuneration or profit.

17.04.1170 - Start of construction.

"Start of construction" is meant to include substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement

or other improvement was within one hundred eighty days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or shed not occupied as dwelling units or not a part of the main structure.

17.04.1175 - Steep slopes.

"Steep slopes" means those slopes that are equal to or greater than twenty-five percent. Steep slopes have been removed from the "buildable lands" inventory and have not been used in calculations to determine the number of acres within the urban growth boundary which are available for development.

17.04.1180 - Stormwater.

"Stormwater" means the surface water runoff that results from all natural forms of precipitation.

17.04.1183 - Stormwater pre-treatment facility.

"Stormwater pre-treatment facility" means any structure or drainage way that is designed, constructed, and maintained to collect and filter, retain, or detain surface water run-off during and after a storm event for the purpose of water quality improvement.

17.04.1185 - Stormwater quantity control and quality control facilities.

"Stormwater quantity control and quality control facility" means a component of a man-made drainage feature, or features designed or constructed to perform a particular function or multiple functions, including, but not limited to, pipes, swales, ditches, culvert, street gutters, detention basins, retention basins, wet ponds, constructed wetlands, infiltration devices, catch basins, oil/water separators, and sediment basins. Stormwater facilities shall not include building gutters, downspouts and drains serving one single-family residence.

17.04.1190 - Stormwater pretreatment facility.

"Stormwater pretreatment facility" means any structure or drainage way that is designed, constructed and maintained to collect and filter, retain or detain surface water runoff during and after a storm event for the purpose of water quality improvement.

17.04.1195 - Story.

"Story" means that part of a building between the surface of any floor and the surface of the floor next above it or if there be no floor above it, then the space between the floor and the ceiling next above it. A basement shall count as a story if the finished floor level directly above an underfloor space is more than 6 feet above grade for more than 50 percent of the total perimeter or is more than 12 feet above grade at any point.

17.04.1200 - Story, half.

"Half story" means a story under a gable, hip, or gambrel roof of which the wall are not standard height.

17.04.1205 - Stream.

"Stream" means areas where surface water produces a defined channel or bed, including bedrock channels, gravel beds, sand and silt beds, and defined-channel swales. The channel or bed does not have to contain water year-round. This definition is not meant to include irrigation ditches, canals, storm or surface water runoff structures, or other artificial watercourses unless they are used to convey streams naturally occurring prior to construction of such watercourses. Streams are categorized into two classes: perennial streams and intermittent streams. Perennial stream means a stream that flows year-round during years of normal precipitation. Intermittent stream means a stream that flows only part of the year, or seasonally, during years of normal precipitation.

17.04.1210 - Street or road.

"Street or road" means a public or private way that is created to provide the principal means of ingress or egress for persons to one or more lots, parcels, areas or tracts of land, excluding a private way that is created to provide ingress and egress to such land in conjunction with the use of such land for forestry, mining or agricultural purposes.

17.04.1215 - Structure.

"Structure" means anything constructed or erected that requires location on the ground or attached to something having location on the ground.

For OCMC 17.42 "structure" means a walled and roofed building including a gas or liquid storage tank that is principally aboveground.

Utility poles and transportation facilities or any items located within a public easement or right of way are not considered structures within this definition.

17.04.1220 - Structural alterations.

"Structural alterations" means any change in the supporting members of a building such as bearing walls, columns, beams or girders.

17.04.1225 - Subdivide land.

"Subdivide land" means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year. Subdivide land does not include:

1. A division of land resulting from a lien foreclosure, foreclosure of a recorded contract for the sale of real property or the creation of cemetery lots;
2. An adjustment of a property line by the relocation of a common boundary where an additional unit of land is not created and where the existing unit of land reduced in size by the adjustment complies with any applicable zoning ordinance;
3. The division of land resulting from the recording of a partition;
4. A sale or grant by a person to a public agency or public body for State highway, County road, City street or other right-of-way purposes provided that such road or right-of-way complies with the Oregon City Comprehensive Plan, applicable state statutes, and does not create additional parcels.

17.04.1230 - Subdivide.

"Subdivide" means to divide an area or tract of land into four or more lots within a calendar year when such area or tract of land exists as a unit or contiguous units of land under a single ownership at the beginning of such year.

17.04.1235 - Subdivider.

"Subdivider" means any person who undertakes the subdividing of a parcel of land, including changes

in street or lot lines, for the purpose of transfer of ownership or development.

17.04.1240 - Subdivision.

"Subdivision" means an act of subdividing land.

17.04.1245 - Subdivision plat.

"Subdivision plat" means and includes a final map or other writing containing all the descriptions, locations, specifications, dedications, provisions and information concerning a subdivision.

17.04.1250 - Subject property.

"Subject property" means the land that is the subject of a permit application.

17.04.1255 - Substantial damage.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty percent of the assessed value of the structure before the damage occurred.

17.04.1260 - Substantial improvement.

"Substantial improvement" for the purpose of OCMC 17.40 means any repair, reconstruction or improvement of a structure, the cost of which equals or exceeds fifty percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary or safety code specifications which has been identified by the Local Code Enforcement Official and that is the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

17.04.1265 - Support structure.

"Support structure" means an existing building or other structure to which an antenna is or will be attached, including, but not limited to, buildings, steeples, water towers, and billboard signs. Support structures do not include support towers, buildings or structures used for residential purposes, utility poles, light standards, or light poles.

17.04.1270 - Support tower.

"Support tower" means a structure designed and constructed exclusively to support a wireless communication facility or an antenna array, including, but not limited to, monopoles, lattice towers, guyed towers, and self-supporting towers.

17.04.1271 - Temporary structure.

A temporary structure permitted in OCMC 17.62 or 17.54.010, excluding mobile vendors.

17.04.1275 - Temporary wireless communication facility (Temporary WCF).

"Temporary wireless communication facility (Temporary WCF)" means any wireless communication facility that is to be placed in use for not more than sixty days, is not deployed in a permanent manner, and does not have a permanent foundation.

17.04.1280 - Through lot.

"Through lot" means a lot having frontage on two streets that are not alleys.

17.04.1285 - Title 3.

"Title 3" means that part of the Metro urban growth management functional plan which requires local governments to comply with regional regulations. Title 3 is a part of those regional regulations.

17.04.1290 - Title 3 wetlands.

"Title 3 "wetlands" means wetlands of metropolitan concern as shown on the Metro Water Quality and Flood Management Area Map and other wetlands added to City or County adopted water quality and flood management area maps consistent with the criteria in OCMC 17.49.[0]90D. Title 3 wetlands do not include artificially constructed and managed stormwater and water quality treatment facilities.

17.04.1295 - Toe.

"Toe" of slope means the point of curvature where the ground surface flattens from a descending slope.

17.04.1300 - Top of bank.

"Top of bank" means the same as "bankfull stage."

17.04.1302 – Townhouse or Townhome

"Townhouse" or "Townhome" means single-family attached residential units.

17.04.1303 – Tract

"Tract" means a piece of land created and designated as part of a land division that is not a lot, lot of record, or a public right of way.

17.04.1305 - Transit stop.

"Transit stop" means any posted bus, light rail or other mass transit stop.

17.04.1310 - Transit street.

"Transit street" means any street identified as an existing or planned bus, rail or mass transit route by a transit agency or a street on which transit operates.

17.04.1312 - Transportation facilities.

"Transportation facilities" shall include construction, operation, and maintenance of travel lanes, bike lanes and facilities, curbs, gutters, drainage facilities, sidewalks, transit stops, landscaping, and related improvements located within rights-of-way controlled by a public agency, consistent with the City's Transportation System Plan.

17.04.1315 - Tree.

"Tree" means a living standing woody plant having a trunk six inches in diameter or nineteen inches in circumference or more at a point four and one-half feet above mean ground level at the base of the tree.

17.04.1320 - Tree, buffer.

"Buffer tree" means an evergreen or deciduous tree that has been approved as part of a buffering and or screening plan.

17.04.1325 - Tree caliper.

"Tree caliper" means an ANSI (American National Standards Institute) standard for the measurement of nursery trees. For trees up to six inches in diameter, caliper is measured at six inches above the ground level. Trees that a seven to twelve-inch caliper are measured at twelve inches above the ground. For nursery stock above twelve inches in diameter, a DBH measurement is used (see Tree, Diameter at Breast Height).

17.04.1330 - Tree, clear cutting.

See "Clear cutting."

17.04.1335 - Tree, critical root zone.

"Tree, critical root zone" means the rooting area of a tree, within the tree's dripline, which if injured or otherwise disturbed is likely to affect a tree's chance for survival.

17.04.1340 - Tree, diameter at breast height (DBH).

"Tree, diameter at breast height (DBH)" means a measurement of the trunk or stem diameter of a mature tree at a height 4.5 feet above the ground level at the base of the tree. Trees growing on slopes are measured at the mid-point between the up-slope and down-slope sides (see Trees, Regulated).

17.04.1345 - Tree dripline.

"Tree dripline" means an imaginary line along the ground that reflects the perimeter of the crown of a tree extended vertically to the ground. The dripline radius is typically measured at approximately one foot away from the trunk of the tree for each inch of tree diameter.

17.04.1350 - Tree, established.

A public or street tree which has been properly planted and maintained in an approved location pursuant to accepted city standards, and which is not diseased, dying or hazardous.

17.04.1355 - Tree, Grove/Tree group.

"Tree, Grove/Tree group" means a stand of more than one tree separated by no more than twenty feet.

17.04.1360 - Tree, diseased.

"Diseased tree" means a tree that has a naturally occurring disease that is expected to kill the tree, or which harbors communicable diseases or insects of a type that could infest and cause the decline of adjacent or nearby trees as determined by a certified arborist, forester or horticulturist.

17.04.1363 - Tree, hazardous.

"Hazardous tree" means a tree that presents a significant risk to life or property as determined by a certified arborist, forester, or horticulturalist. An otherwise healthy tree that may become a hazard to a proposed future development shall not be considered a hazardous tree. Hazardous trees may include, but are not limited to dead, diseased, broken, split, cracked, leaning, and uprooted trees. A tree

harboring communicable diseases or insects of a type that could infest and cause the decline of adjacent or nearby trees may also be identified as a hazardous tree.

17.04.1365 - Tree (or Grove), Heritage. (Also commonly known as a "Heritage Tree" or "Grove".)

"Heritage Tree" or "Grove" means a tree or group of trees that have been designated by the city as having unique importance, and subject to the Heritage Tree Regulations of OCMC 12.08.050. Where a grouping of two or more Heritage Trees is separated by no more than twenty feet on a property or properties, the term Heritage Grove may be used.

17.04.1370 - Tree, imminent hazard.

"Imminent hazard tree" means a hazardous tree as defined in OCMC 12.32.020— all or more than thirty percent of which has already fallen or is estimated to fall within seventy-two hours into the public right-of-way or onto a target that cannot be protected, restricted, moved, or removed. (See also Tree, Hazard.) Determination of Imminent Hazard is made by the City of Oregon City Public Works or Emergency Personnel, a PGE forester, or a certified arborist.

17.04.1375 - Tree lawn.

See the definition of "planter strip".

17.04.1380 - Tree (or Grove), native.

"Native Tree" or "Grove" refers to a regulated native tree or groves of trees that are found on the Oregon City Native Plant List. Significant native trees are those that contribute to the landscape character of the area and include Douglas fir, cedar, redwood, sequoia, oak, ash, birch, and maple. Significant native trees are typically suitable for retention next to streets and are not of a species that would likely create a public nuisance, hazard, or maintenance problem.

17.04.1385 - Tree, ornamental.

"Ornamental tree" means for purposes of tree removal, any tree (including shade trees) that originated as nursery stock as opposed to native trees that originated at the site prior to development.

17.04.1390 - Tree, parking lot.

"Parking lot tree" means a tree the location and variety of which was approved as part of a parking lot plan through the site plan and design review process.

17.04.1395 - Tree, perimeter.

"Tree, perimeter" means a tree located within five feet of an adjacent property line.

17.04.1400 - Tree protection plan.

"Tree protection plan" means a detailed description of how trees intended to remain after development will be protected and maintained.

17.04.1405 - Tree pruning.

"Tree pruning" means the prudent and judicious maintenance of trees through cutting out of branches, water sprouts, suckers, twigs, or branches. Major pruning entails the cutting out of branches three inches in diameter or greater. Major pruning also includes root pruning and cutting out branches and limbs constituting more than twenty percent of the trees foliage bearing area. Minor pruning includes removal of deadwood and pruning less than twenty percent of the tree's foliage bearing area.

17.04.1410 - Tree, public.

"Public Tree" means a tree or trees within a public park, greenway, or other property owned by a governmental agency or dedicated to the public use. Street trees located in the public right-of-way are considered public trees.

17.04.1415 - Tree, (or Grove) regulated.

"Regulated Tree or Grove" means trees and groves located on development properties undergoing land use review which are subject to the tree protection provisions of OCMC 17.41. Street trees, buffer trees, and parking lot trees of any size, as well as Heritage trees and groves, may fall under the general category of "regulated" or protected trees.

17.04.1420 - Tree removal.

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

17.04.1425 - Tree, street.

"Street tree" means any tree located in a public right-of-way, including streets and publicly dedicated alleys. For the purposes of this chapter, street right-of-way includes the area between the edge of pavement, edge of gravel or face of curb and the property line, depending on the circumstances.

17.04.1430 - Tree, severe crown reduction.

"Tree, severe crown reduction" means the specific reduction in the overall size of a tree and/or the severe internodal cutting back of branches or limbs to stubs within the tree's crown to such a degree as to remove the normal tree canopy and disfigure the tree. Severe crown reduction is not a form of pruning. (Also known as Tree Topping.)

17.04.1435 - Tree topping.

See "Severe Crown Reduction."

17.04.1437 - Tributary.

"Tributary" means a stream, regardless of size or water volume, that flows into or joins another stream. The point where two tributaries meet is called a confluence.

17.04.1440 - Undevelopable area.

"Undevelopable area" means an area that cannot be used practicably for a habitable structure because of natural conditions, such as severe topographic relief, water bodies, or conditions that isolate one portion of a property from another portion so that access is not practicable to the unbuildable portion; or man-made conditions, such as existing development which isolates a portion of the site and prevents its further development; setbacks or development restrictions that prohibit development of a given area of a lot by law or private agreement; or existence or absence of easements or access rights that prevent development of a given area.

17.04.1445 - Use.

"Use" means the purpose that land, or a building or a structure now serves or for which is occupied, maintained, arranged or designed.

17.04.1450 - Utility facilities.

"Utility facilities" means buildings, features or any constructed portion of a system which provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, stormwater, telephone and cable television. Utility facilities do not include stormwater pretreatment facilities.

17.04.1455 - Utility pole placement/replacement.

"Utility pole placement/replacement" means placement of antennas or antenna arrays on existing or replaced features such as utility poles, light standards, and light poles for streets and parking lots.

17.04.1458 - Vanpool

"Vanpool" means a group of five or more commuters, including the driver, who share the ride to and from work, school or other destination on a regularly scheduled basis.

17.04.1460 - Variance.

"Variance" means a grant of relief from the requirements of OCMC 16 or 17, which permit construction in a manner that would otherwise be prohibited.

17.04.1465 - Vegetated Corridor.

"Vegetated Corridor" means the area of setback between the top of bank of a protected water feature and the delineated edge of the water quality resource area as defined in OCMC Table 17.49-1 of this chapter.

17.04.1470 - Visible or measurable erosion.

"Visible or measurable erosion" includes, but is not limited to:

1. Deposits of mud, dirt, sediment or similar material exceeding one-half cubic foot in volume on public or private streets, adjacent property, or onto the storm and surface water system, either by direct deposit, dropping discharge, or as a result of the action of erosion.
2. Evidence of concentrated flows of water over bare soils; turbid or sediment laden flows; or evidence of on-site erosion such as rivulets on bare soil slopes, where the flow of water is not filtered or captured on the site.
3. Earth slides, mudflows, earth sloughing, or other earth movement that leaves the property.

17.04.1475 - Watercourse.

"Watercourse" means a channel in which a flow of water occurs, either continuously or intermittently, and if the latter, with some degree of regularity. Such flow must be in a definite direction.

17.04.1480 - Water dependent.

"Water dependent" means a structure for commerce or industry which cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

17.04.1485 - Water quality resource areas.

"Water quality resource areas" means vegetated corridors and the adjacent protected water feature as established by OCMC 17.49.

17.04.1490 - Watershed.

"Watershed" means a geographic unit defined by the flows of rainwater or snowmelt. All land in a watershed drains to a common outlet, such as a stream, lake or wetland.

17.04.1495 - Wetlands.

"Wetlands" means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support and, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs and similar areas. Wetlands are those areas identified and delineated by a qualified wetland specialist as set forth in the 1987 Corps of Engineers Wetland Delineation Manual.

17.04.1500 - Wireless communications.

"Wireless communications" means any personal wireless services as defined by the Federal Telecommunications Act of 1996 as amended, including but not limited to cellular, personal communications services, specialized mobile radio, enhanced specialized mobile radio, paging, similar Federal Communications Commission-licensed commercial wireless telecommunications services, and wireless telecommunications services for public safety that currently exist or that may be developed in the future.

17.04.1505 - Wireless communications facility (WCF).

"Wireless communications facility (WCF)" means any un-staffed facility for the transmission and/or reception of radio frequency signals, which includes, but is not limited to, all auxiliary support equipment, any support tower or structure used to achieve the necessary elevation for the antenna, transmission and reception cabling and devices, and all antenna arrays.

17.04.1510 - Yard.

"Yard" means an open space other than a court on the same lot with a building unoccupied or unobstructed from the ground upward except for usual building projections as permitted by this title.

17.04.1515 - Yard, front.

"Front yard" means a yard extending the full width of the lot, the depth of which is the minimum distance from the front lot line to the main building.

17.04.1520 - Yard, rear.

"Rear yard" means a yard extending the full width of the lot, the depth of which is the minimum distance from the rear lot line to the main building.

17.04.1525 - Yard, side.

"Side yard" means a yard extending from the front yard to the rear yard along the side of the main building. The width of such yard is the minimum distance from the side lot line to the main building.

17.04.1530 - Yard, side, corner.

"Corner side yard" means a yard lot located on a corner which extends from the front yard to the rear yard along the side of the main building. The width of such yard is the minimum distance from the side lot line abutting the street to the main building.

17.04.1535 - Yard, side, interior.

"Interior side yard" means a yard extending from the front yard to the rear yard along the side of the main building. The width of such yard is the minimum distance from the side lot line not abutting the street to the main building.

Oregon City Municipal Code

Chapter 17.08 Low Density Residential Districts

17.08.010 - Designated.

The R-10, R-8 and R-6 residential districts are designed for low density residential development.

17.08.020 - Permitted uses.

Permitted uses in the R-10, R-8 and R-6 districts are:

- A. Single-family detached residential units;
- B. Accessory uses, buildings and dwellings;
- C. Internal conversions;
- D. Corner duplexes;
- E. Cluster housing;
- F. Residential homes;
- G. Parks, playgrounds, playfields and community or neighborhood centers;
- H. Home occupations;
- I. Family day care providers;
- J. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on-site is permitted);
- K. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- L. Transportation facilities.

17.08.025 - Conditional uses.

The following uses are permitted in the R-10, R-8 and R-6 districts when authorized by and in accordance with the standards contained in OCMC 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises;
- B. Bed and breakfast inns/boarding houses;
- C. Cemeteries, crematories, mausoleums and columbariums;
- D. Child care centers and nursery schools;
- E. Emergency service facilities (police and fire), excluding correctional facilities;
- F. Residential care facilities;
- G. Private and/or public educational or training facilities;
- H. Public utilities, including sub-stations (such as buildings, plants and other structures);
- I. Religious institutions;
- J. Assisted living facilities; nursing homes and group homes for over fifteen patients;

17.08.030 - Master plans.

The following are permitted in the R-10, R-8 and R-6 districts when authorized by and in accordance with the standards contained in OCMC 17.65.

A. Single-family attached residential units.

17.08.035 - Prohibited uses.

Prohibited uses in the R-10, R-8 and R-6 districts are:

- A. Any use not expressly listed in OCMC 17.08.020, 17.08.025 or 17.08.030;
- B. Marijuana businesses.

17.08.040 - Dimensional standards.

Dimensional standards in the R-10, R-8 and R-6 districts are as follows:

Table 17.08.040

| Standard | R-10 | R-8 | R-6 |
|---|---|---|---|
| Minimum lot size ¹ | 10,000 sq. ft. | 8,000 sq. ft. | 6,000 sq. ft. |
| Maximum height | 35 ft. | 35 ft. | 35 ft. |
| Maximum building lot coverage With ADU | 40%, except 45% | 40%, except 45% | 40%, except 45% |
| Minimum lot width | 65 ft. | 60 ft. | 50 ft. |
| Minimum lot depth | 80 ft. | 75 ft. | 70 ft. |
| Minimum front yard setback | 20 ft., except 15 ft. - Porch | 15 ft., except 10 ft. - Porch | 10 ft., except 5 ft. - Porch |
| Minimum interior side yard setback | 8 ft. | 7 ft. | 5 ft. |
| Minimum corner side yard setback | 10 ft. | 10 ft. | 10 ft. |
| Minimum rear yard setback | 20 ft, except 15 ft - Porch 10 ft - ADU | 20 ft, except 15 ft - Porch 10 ft - ADU | 20 ft, except 15 ft - Porch 10 ft - ADU |
| Garage setback | 20 ft. from ROW, except 5 ft. Alley | 20 ft. from ROW, except 5 ft. Alley | 20 ft. from ROW, except 5 ft. Alley |

Notes:

- 1. For land divisions, lot sizes may be reduced pursuant to OCMC 16.08.065.
- 2. Accessory structures may have reduced setbacks pursuant to OCMC 17.54.010.B.
- 3. Public utility easements may supersede the minimum setback.

17.08.045 - Exceptions to setbacks.

- A. Projections from buildings. Ordinary building projections such as cornices, eaves, overhangs, canopies, sunshades, gutters, chimneys, flues, sills or similar architectural features may project into the required yards up to twenty-four inches.
- B. Through lot setbacks. Through lots having a frontage on two streets shall provide the required front yard on each street. The required rear yard is not necessary.

17.08.050 - Density standards.

A. Density standards in the R-10, R-8 and R-6 districts are as follows:

Table 17.08.050

| Standard | R-10 | R-8 | R-6 |
|---------------------|-------------|-------------|-------------|
| Minimum net density | 3.5 du/acre | 4.4 du/acre | 5.8 du/acre |
| Maximum net density | 4.4 du/acre | 5.4 du/acre | 7.3 du/acre |

B. Exceptions.

1. Any dwelling units created as accessory dwelling units or internal conversions do not count towards the minimum or maximum density limits in Table 17.08.050.
2. Corner duplexes shall count as a single dwelling unit for the purposes of calculating density.
3. Cluster housing is permitted at higher densities exempt from the standards in Table 17.08.050; see OCMC 17.20.020.

Oregon City Municipal Code

Chapter 17.10 Medium Density Residential Districts

17.10.010 - Designated.

The R-5 and R-3.5 residential districts are designed for medium density residential development.

17.10.020 - Permitted uses.

Permitted uses in the R-5 and R-3.5 districts are:

- A. Single-family detached residential units;
- B. Accessory uses, buildings and dwellings;
- C. Internal conversions;
- D. Duplexes;
- E. Corner duplexes;
- F. Single-family attached residential units;
- G. 3-4 plex residential;
- H. Cluster housing;
- I. Manufactured home parks or subdivisions in the R-3.5 district only;
- J. Residential homes;
- K. Parks, playgrounds, playfields and community or neighborhood centers;
- L. Home occupations;
- M. Family day care providers;
- N. Farms, commercial or truck gardening and horticultural nurseries on a lot not less than twenty thousand square feet in area (retail sales of materials grown on-site is permitted);
- O. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- P. Transportation facilities.

17.10.025 - Conditional uses.

The following uses are permitted in the R-5 and R-3.5 districts when authorized by and in accordance with the standards contained in OCMC 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises;
- B. Bed and breakfast inns/boarding houses;
- C. Cemeteries, crematories, mausoleums and columbariums;
- D. Child care centers and nursery schools;
- E. Emergency service facilities (police and fire), excluding correctional facilities;
- F. Residential care facilities;
- G. Private and/or public educational or training facilities;
- H. Public utilities, including sub-stations (such as buildings, plants and other structures);
- I. Religious institutions;
- J. Assisted living facilities; nursing homes and group homes for over fifteen patients.
- K. Live/work dwellings.

17.10.030 - Master plans.

The following use is permitted in the R-3.5 district when authorized by and in accordance with the standards contained in OCMC 17.65.

- A. Multifamily residential.

17.10.035 - Prohibited uses.

Prohibited uses in the R-5 and R-3.5 districts are:

- A. Any use not expressly listed in OCMC 17.10.020, 17.10.025 or 17.10.030.
- B. Marijuana businesses.

17.10.040 - Dimensional standards.

Dimensional standards in the R-5 and R-3.5 districts are as follows:

Table 17.10.040

| Standard | R-5 | R-3.5 |
|---|---|---|
| Minimum lot size ¹ Single-family detached Duplex Single-family attached 3-4 plex | 5,000 sq. ft. 6,000 sq. ft. 3,500 sq. ft. 2,500 sq. ft. per unit | 3,500 sq. ft. 4,000 sq. ft. 2,500 sq. ft. 2,000 sq. ft. per unit |
| Maximum height | 35 ft. | 35 ft. |
| Maximum building lot coverage Single-family detached and all duplexes With ADU Single-family attached and 3-4 plex | 50% 60% 70% | 55% 65% 80% |
| Minimum lot width All, except Single-family attached | 35 ft., except 25 ft. | 25 ft., except 20 ft. |
| Minimum lot depth | 70 ft. | 70 ft. |
| Minimum front yard setback | 10 ft., except 5 ft. - Porch. | 5 ft., except 0 ft. - Porch |
| Minimum interior side yard setback All, except Single-family attached | 5 ft., except 0 ft. (attached) /5 ft. (side) | 5 ft., except 0 ft. (attached) /5 ft. (side) |
| Minimum corner side yard setback | 7 ft. | 7 ft. |
| Minimum rear yard setback | 20 ft., except 15 ft. - porch 10 ft. - ADU | 20 ft., except 15 ft. - porch 5 ft. - ADU |
| Garage setbacks | 20 ft. from ROW, except 5 ft. from alley | 20 ft. from ROW, except 5 ft. from alley |

Notes:

1. For land divisions, lot sizes may be reduced pursuant to OCMC 16.08.065.
2. Public utility easements may supersede the minimum setback.

17.10.045 - Exceptions to setbacks.

- A. Projections from buildings. Ordinary building projections such as cornices, eaves, overhangs, canopies, sunshades, gutters, chimneys, flues, sills or similar architectural features may project into the required yards up to twenty-four inches.
- B. Through lot setbacks. Through lots having a frontage on two streets shall provide the required front yard on each street. The required rear yard is not necessary.

17.10.050 - Density standards.

- A. Density standards in the R-5 and R-3.5 districts are as follows:

Table 17.10.050

| Standard | R-5 | R-3.5 |
|--------------------------|--------------|--------------|
| Minimum net density | 7.0 du/acre | 10 du/acre |
| Maximum net density | | |
| • Single-family detached | 8.7 du/acre | 12.4 du/acre |
| • Single-family attached | 12.4 du/acre | 17.4 du/acre |
| • 3-4 plexes | 17.4 du/acre | 21.8 du/acre |

- B. Exceptions.

1. Any dwelling units created as accessory dwelling units or internal conversions do not count towards the minimum or maximum density limits in Table 17.10.050.
2. Duplexes and corner duplexes shall count as a single dwelling unit for the purposes of calculating minimum and maximum density standards.
3. Cluster housing is permitted at higher densities exempt from the standards in Table 17.10.050; see OCMC 17.20.020.

17.10.060 - Conversion of Existing Duplexes.

Any conversion of an existing duplex unit into two single-family attached dwellings shall be reviewed for compliance with the land division requirements in Title 16 and the underlying zone district.



Oregon City Municipal Code

Chapter 17.12 High Density Residential District

17.12.010 - Designated.

The R-2 residential district is designed for high density residential development.

17.12.020 - Permitted uses.

Permitted uses in the R-2 district are:

- A. Accessory dwelling units for existing single-family detached residential units constructed prior to the effective date of this ordinance;
- B. Internal conversions of existing single-family detached residential units constructed prior to the effective date of this ordinance;
- C. Duplexes;
- D. Corner duplexes;
- E. Single-family attached residential units;
- F. 3-4 plex residential;
- G. Multifamily residential;
- H. Cluster housing;
- I. Residential care facilities;
- J. Accessory buildings;
- K. Parks, playgrounds, playfields and community or neighborhood centers;
- L. Home occupations;
- M. Family day care providers;
- N. Temporary real estate offices in model homes located on and limited to sales of real estate on a single piece of platted property upon which new residential buildings are being constructed;
- O. Management and associated offices and buildings necessary for the operations of a multi-family residential development;
- P. Transportation facilities.

17.12.025 - Conditional uses.

The following uses are permitted in the R-2 districts when authorized by and in accordance with the standards contained in OCMC 17.56:

- A. Golf courses, except miniature golf courses, driving ranges or similar commercial enterprises;
- B. Bed and breakfast inns/boarding houses;
- C. Cemeteries, crematories, mausoleums and columbariums;
- D. Child care centers and nursery schools;
- E. Emergency service facilities (police and fire), excluding correctional facilities;
- F. Private and/or public educational or training facilities;
- G. Public utilities, including sub-stations (such as buildings, plants and other structures);

- H. Religious institutions;
- I. Assisted living facilities; nursing homes and group homes for over fifteen patients;
- J. Live/work dwellings;

17.12.030 - Pre-existing industrial use.

Tax Lot 11200, located on Clackamas County Map #32E16BA has a special provision to permit the current industrial use and the existing incidental sale of the products created and associated with the current industrial use on the site. This property may only maintain and expand the current uses, which are the manufacturing of aluminum boats and the fabrication of radio and satellite equipment, internet and data systems and antennas.

17.12.035 - Prohibited uses.

Prohibited uses in the R-2 district are:

- A. Any use not expressly listed in OCMC 17.12.020, 17.12.025 or 17.12.030.
- B. Marijuana businesses.

17.12.040 - Dimensional standards.

Dimensional standards in the R-2 district are as follows:

Table 17.12.040

| Standard | R-2 |
|--|---|
| Minimum lot size ¹ <ul style="list-style-type: none"> • Duplex • Single-family attached • 3-4 plex and multifamily | 4,000 sq. ft. 2,000 sq. ft. 6,000 sq. ft. |
| Maximum height All, except Multifamily | 35 ft., except 45 ft. |
| Maximum building lot coverage | 85% |
| Minimum lot width All, except Single-family attached | 50 ft., except 20 ft. |
| Minimum lot depth All, except Multifamily | 70 ft., except 75 ft. |
| Minimum front yard setback | 5 ft., except 0 ft. - Porch |
| Maximum front yard setback | 20 ft. |
| Minimum interior side yard setback All, except Single-family attached | 5 ft. ¹ 0 ft. (attached) / 5 ft. (side) |
| Minimum corner side yard setback | 5 ft. |
| Minimum rear yard setback | 10 ft. ¹ , except |

| | |
|---|---|
| | 5 ft. - Porch |
| Garage setbacks | 20 ft. from ROW, except 5 ft. from alley |
| Minimum required landscaping (including landscaping within a parking lot) | 15% |

Notes:

1. If a multifamily residential development abuts a parcel zoned R-10, R-8, R-6, there shall be a landscaped yard of 10 feet on the side abutting the adjacent zone in order to provide a buffer area.
2. Public utility easements may supersede the minimum setback.
3. Maximum setback may be increased per OCMC 17.62.055.D.

17.12.045 - Exceptions to setbacks.

- A. Projections from buildings. Ordinary building projections such as cornices, eaves, overhangs, canopies, sunshades, gutters, chimneys, flues, sills or similar architectural features may project into the required yards up to twenty-four inches.
- B. Through lot setbacks. Through lots having a frontage on two streets shall provide the required front yard on each street. The required rear yard is not necessary.

17.12.050 - Density standards.

- A. The minimum net density in the R-2 district shall be 17.4 dwelling units per acre.
- B. The maximum net density in the R-2 district shall be 21.8 dwelling units per acre.
- C. Affordable housing density bonus. Residential projects in the R-2 zone with five or more units on a single lot are eligible for a density bonus in exchange for developing affordable housing. A bonus of one additional dwelling unit per affordable unit included in the project, up to a maximum twenty percent increase from maximum net density up to 26.2 du/acre, is allowed. Projects containing exclusively affordable units may develop to the maximum twenty percent increase or 26.2 du/acre. Affordable units shall be affordable to households earning equal to or less than 80 percent of the area median income as defined by the U.S. Department of Housing and Urban Development, adjusted for household size, and guaranteed affordable for a minimum term of 30 years through restrictive covenant or other similar guarantee approved by the Community Development Director.

Oregon City Municipal Code

Chapter 17.24 NC Neighborhood Commercial District

17.24.010 - Designated.

The Neighborhood Commercial District is designed for small-scale commercial and mixed-uses designed to serve a convenience need for residents in the surrounding low-density neighborhood. Land uses consist of small and moderate sized retail, service, office, multi-family residential uses or similar. This district may be applied where it is appropriate to reduce reliance on the automobile for the provision of routine retail and service amenities, and to promote walking and bicycling within comfortable distances of adjacent residential infill neighborhoods, such as within the Park Place and South End Concept Plan areas. Approval of a site plan and design review application pursuant to OCMC 17.62 is required.

17.24.020 - Permitted Uses—NC.

The following uses are permitted within the Neighborhood Commercial District:

- A. Any use permitted in the Mixed-Use Corridor, provided the maximum footprint for a stand alone building with a single store or multiple buildings with the same business does not exceed ten thousand square feet, unless otherwise restricted in this chapter;
- B. Grocery stores, provided the maximum footprint for a stand alone building with a single store or multiple buildings with the same business does not exceed forty thousand square feet;
- C. Live/work dwellings;
- D. Outdoor sales that are ancillary to a permitted use on the same or abutting property under the same ownership.

17.24.025 - Conditional uses.

The following conditional uses may be permitted when approved in accordance with the process and standards contained in OCMC 17.56:

- A. Any use permitted in the Neighborhood Commercial District that has a building footprint in excess of ten thousand square feet;
- B. Emergency and ambulance services;
- C. Drive-through facilities;
- D. Outdoor markets that are operated before six p.m. on weekdays;
- E. Public utilities and services such as pump stations and sub-stations;
- F. Religious institutions;
- G. Public and or private educational or training facilities;
- H. Gas stations;
- I. Hotels and motels, commercial lodging;
- J. Veterinary clinic or pet hospital.

17.24.035 - Prohibited uses.

The following uses are prohibited in the NC District:

- A. Distributing, wholesaling and warehousing;
- B. Outdoor storage;
- C. Outdoor sales that are not ancillary to a permitted use on the same or abutting property under the same ownership;
- D. Hospitals;
- E. Kennels;
- F. Motor vehicle sales and incidental service;
- G. Motor vehicle repair and service;
- H. Self-service storage facilities;
- I. Heavy equipment service, repair, sales, storage or rental (including but not limited to construction equipment and machinery and farming equipment);
- J. Marijuana production, processing, wholesaling, research, testing, and laboratories;
- K. Mobile Food Units or Vendors, except with a special event permit.
- L. Residential use that exceeds fifty percent of the total building square footage on-site.

17.24.040 - Dimensional standards.

Dimensional standards in the NC district are:

- A. Maximum building height: Forty feet or three stories, whichever is less.
- B. Maximum building footprint: Ten thousand square feet.
- C. Minimum required setbacks if not abutting a residential zone: None.
- D. Minimum required interior and rear yard setbacks if abutting a residential zone: Ten feet plus one-foot additional yard setback for every one foot of building height over thirty-five feet.
- E. Maximum Allowed Setback.
 - 1. Front yard setback: Five feet.
 - 2. Interior yard setback: None.
 - 3. Corner side yard setback abutting a street: Thirty feet.
 - 4. Rear yard setback: None.Public utility easements may supersede the minimum setback. Maximum setback may be increased per OCMC 17.62.055.D.
- F. Standards for residential uses: Residential uses shall meet the minimum net density standards for the R-3.5 district, except that no minimum net density shall apply to residential uses proposed above nonresidential uses in a mixed-use configuration or to live/work dwellings. Any new lots proposed for exclusive residential use shall meet the minimum lot size and setbacks for the R-3.5 zone for the proposed residential use type.
- G. Minimum required landscaping (including landscaping within a parking lot): Fifteen percent.

Oregon City Municipal Code

Chapter 17.26 HC Historic Commercial District

17.26.010 - Designated.

The Historic Commercial District is designed for limited commercial use. Allowed uses should facilitate the re-use and preservation of existing buildings and the construction of new architecturally compatible structures. Land uses are characterized by high-volume establishments such as retail, service, office, residential, lodging, recreation and meeting facilities, or a similar use as defined by the Community Development Director. Additional design requirements or adjustments to dimensional standards may be required to comply with OCMC 17.40 Historic Overlay District.

17.26.20 - Permitted uses.

- A. Single-family detached residential units or a single unit in conjunction with a nonresidential use;
- B. Duplexes or two units in conjunction with a nonresidential use;
- C. Internal conversions;
- D. Live/work dwellings; Accessory uses, buildings and dwellings;
- E. Banquet, conference facilities and meeting rooms;
- F. Bed and breakfast/boarding houses, hotels, motels, and other lodging facilities for up to ten guests per night;
- G. Child care centers and/or nursery schools;
- H. Indoor entertainment centers and arcades;
- I. Health and fitness clubs;
- J. Medical and dental clinics, outpatient; infirmary services;
- K. Museums, libraries and cultural facilities;
- L. Offices, including finance, insurance, real estate and government;
- M. 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;
- N. Postal services;
- O. Parks, playgrounds, play fields and community or neighborhood centers;
- P. Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment;
- Q. Restaurants, eating and drinking establishments without a drivethrough;
- R. Services, including personal, professional, educational and financial services; laundry and dry-cleaning;
- S. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores, marijuana, 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;
- T. Seasonal sales;

- U. Assisted living facilities; nursing homes and group homes for over fifteen patients licensed by the state;
- V. Studios and galleries, including dance, art, photography, music and other arts;
- W. 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;
- X. Veterinary clinics or pet hospitals, pet day care;
- Y. Home occupations;
- Z. Research and development activities;
- AA. 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;
- BB. Residential care homes and facilities licensed by the state;
- CC. Transportation facilities.

17.26.030 - Conditional Uses.

The following conditional uses and their accessory uses are permitted in this district when authorized by and in accordance with the standards contained in OCMC 17.56:

- A. Drive-through facilities;
- B. Emergency service facilities (police and fire), excluding correctional facilities;
- C. Gas stations;
- D. Outdoor markets that do not meet the criteria of OCMC 17.29.020.1.;
- E. Public utilities and services including sub-stations (such as buildings, plants, and other structures);
- F. Public and/or private educational or training facilities;
- G. Religious institutions;
- H. Retail trade, including gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores and any other use permitted in the neighborhood, historic or limited commercial districts that have a footprint for a stand-alone building with a single store in excess of sixty thousand square feet in the MUC-1 or MUC-2 zone;
- J. Hospitals;
- K. Parking not in conjunction with a primary use;
- L. Passenger terminals.

17.26.035 - Prohibited uses.

- A. Single-family attached dwellings;
- B. 3-4 plex residential
- C. Multifamily residential
- D. Marijuana businesses;
- E. Mobile Food Units, except with a special event permit.

17.26.050 - Dimensional standards.

- A. Residential uses:
 1. Single-family detached residential units shall comply with the dimensional and density standards required for the R-6 District.
 2. Duplexes shall comply with the dimensional and density standards required for the R-3.5 District.
- B. All other uses:
 1. Minimum lot area: None.
 2. Maximum building height: Thirty-five feet or three stories, whichever is less.

3. Minimum required setbacks if not abutting a residential zone: None.
4. Minimum required rear yard setback if abutting a residential zone: Twenty feet.
5. Minimum required side yard setbacks if abutting a single-family residential use: Five feet.
6. Maximum front yard setback: Five feet.
7. Maximum interior side yard: None.
8. Maximum rear yard: None.
9. Minimum required landscaping (including landscaping within a parking lot): Twenty percent.

Public utility easements may supersede the minimum setback. Maximum setback may be increased per OCMC 17.62.055.D.

Oregon City Municipal Code

Chapter 17.29 MUC Mixed Use Corridor District

17.29.010 - Designated.

The Mixed-Use Corridor (MUC) District is designed to apply along selected sections of transportation corridors such as Molalla Avenue, 7th Street, Beaver Creek Road, and along Warner-Milne Road. Land uses are characterized by high-volume establishments such as retail, service, office, multi-family residential, lodging, recreation and meeting facilities, or a similar use as defined by the Community Development Director. A mix of high-density residential, office, and small-scale retail uses are encouraged in this District. Moderate density (MUC-1) and high density (MUC-2) options are available within the MUC zoning district. The area along 7th Street is an example of MUC-1, and the area along Warner-Milne Road is an example of MUC-2.

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

- A. Banquet, conference facilities and meeting rooms;
- B. Bed and breakfast/boarding houses, hotels, motels, and other lodging facilities;
- 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, playfields and community or neighborhood centers;
- L. Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment;
- M. Multifamily residential, 3-4 plex residential;
- N. One or two dwelling units in conjunction with a nonresidential use, provided that the residential use occupies no more than 50% of the total square footage of the development;
- O. Restaurants, eating and drinking establishments without a drive-through;
- P. Services, including personal, professional, educational and financial services; laundry and dry-cleaning;
- Q. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores, marijuana, 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;
- R. Seasonal sales;

- S. Residential care facilities, assisted living facilities; nursing homes and group homes for over fifteen patients licensed by the state;
- T. Studios and galleries, including dance, art, photography, music and other arts;
- 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;
- V. Veterinary clinics or pet hospitals, pet day care;
- W. Home occupations;
- X. Research and development activities;
- Y. 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;
- Z. Transportation facilities;
- AA. Live/work dwellings;
- BB. After-hours public parking.

17.29.030 - Conditional uses—MUC-1 and MUC-2 zones.

The following uses are permitted in this district when authorized and in accordance with the process and standards contained in OCMC 17.56:

- A. Drive-through facilities;
- B. Emergency service facilities (police and fire), excluding correctional facilities;
- C. Gas stations;
- D. Outdoor markets that do not meet the criteria of OCMC 17.29.020.I;
- E. Public utilities and services including sub-stations (such as buildings, plants and other structures);
- F. Public and/or private educational or training facilities;
- G. Religious institutions;
- H. Retail trade, including gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores and any other use permitted in the neighborhood, historic or limited commercial districts that have a footprint for a stand-alone building with a single store in excess of sixty thousand square feet in the MUC-1 or MUC-2 zone;
- I. Hospitals;
- J. Parking not in conjunction with a primary use on private property, excluding after-hours public parking;
- K. Passenger terminals, excluding bus stops;
- L. Shelters.

17.29.040 - Prohibited uses in the MUC-1 and MUC-2 zones.

The following uses are prohibited in the MUC district:

- A. Distributing, wholesaling and warehousing;
- B. Outdoor storage;
- C. Outdoor sales that are not ancillary to a permitted use on the same or abutting property under the same ownership;
- D. Correctional facilities;
- E. Heavy equipment service, repair, sales, storage or rentals (including but not limited to construction equipment and machinery and farming equipment);
- F. Kennels;
- G. Motor vehicle and recreational vehicle sales and incidental service;
- H. Motor vehicle and recreational vehicle repair/service;
- I. Self-service storage facilities;

- J. Marijuana production, processing, wholesaling, research, testing, and laboratories;
- K. Mobile Food Units, except with a special event permit.

17.29.050 - Dimensional standards—MUC-1.

- A. Minimum lot areas: None.
- B. Maximum building height: Forty feet or three stories, whichever is less.
- C. Minimum required setbacks if not abutting a residential zone: None.
- D. Minimum required interior and rear yard setbacks if abutting a residential zone: Twenty feet, plus one foot additional yard setback for every one foot of building height over thirty-five feet.
- E. Maximum allowed setbacks.
 - 1. Front yard: Five feet.
 - 2. Interior side yard: None.
 - 3. Corner side setback abutting street: Thirty feet.
 - 4. Rear yard: None.

Public utility easements may supersede the minimum setback. Maximum setback may be increased per OCMC 17.62.055.D.F. Maximum lot coverage of the building and parking lot: Eighty percent.

- G. Minimum required landscaping (including landscaping within a parking lot): Twenty percent.
- H. Residential minimum net density of 17.4 units per acre, except that no minimum net density shall apply to residential uses proposed above nonresidential uses in a mixed-use configuration or to live/work dwellings.

17.29.060 - Dimensional standards—MUC-2.

- A. Minimum lot area: None.
- B. Minimum floor area ratio: 0.25.
- C. Minimum building height: Twenty-five feet or two stories except for accessory structures or buildings under one thousand square feet.
- D. Maximum building height: Sixty feet.
- E. Minimum required setbacks if not abutting a residential zone: None.
- F. Minimum required interior and rear yard setbacks if abutting a residential zone: Twenty feet, plus one foot additional yard setback for every two feet of building height over thirty-five feet.
- G. Maximum Allowed Setbacks.
 - 1. Front yard: Five feet.
 - 2. Interior side yard: None.
 - 3. Corner side yard abutting street: Twenty feet.
 - 4. Rear yard: None.
- H. Maximum site coverage of building and parking lot: Ninety percent.
- I. Minimum landscaping requirement (including parking lot): Ten percent.
- J. Residential minimum net density of 17.4 units per acre, except that no minimum net density shall apply to residential uses proposed above nonresidential uses in a mixed-use configuration or to live/work dwellings.

17.29.070 - Floor area ratio (FAR).

Floor area ratios are a tool for regulating the intensity of development. Minimum FARs help to achieve more intensive forms of building development in areas appropriate for larger-scale buildings and higher residential densities.

- A. The minimum floor area ratios contained in OCMC 17.29.050 and 17.29.060 apply to all nonresidential and mixed-use building development, except stand-alone commercial buildings less than ten thousand square feet in floor area.

- B. Required minimum FARs shall be calculated on a project-by-project basis and may include multiple contiguous blocks. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
- C. An individual phase of a project shall be permitted to develop below the required minimum floor area ratio provided the applicant demonstrates, through covenants applied to the remainder of the site or project or through other binding legal mechanism, that the required density for the project will be achieved at project build out.

Oregon City Municipal Code

Chapter 17.31 MUE Mixed Use Employment District

17.31.10 - Designated.

The MUE zone is designed for employment-intensive uses such as large offices and research and development complexes or similar as defined by the community development director. Some commercial uses are allowed, within limits. The county offices and Willamette Falls Hospital are examples of such employment-intensive uses.

17.31.020 - Permitted uses.

Permitted uses in the MUE district are defined as:

- A. Banquet, conference facilities and meeting rooms;
- B. Child care centers, nursery schools;
- C. Medical and dental clinics, outpatient; infirmity services;
- D. Distributing, wholesaling and warehousing;
- E. Health and fitness clubs;
- F. Hospitals;
- G. Emergency service facilities (police and fire), excluding correctional facilities;
- H. Industrial uses limited to the design, light manufacturing, processing, assembly, packaging, fabrication and treatment of products made from previously prepared or semi-finished materials;
- I. Offices;
- J. 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;
- K. Postal services;
- L. Parks, playfields and community or neighborhood centers;
- M. Research and development offices and laboratories, related to scientific, educational, electronics and communications endeavors;
- N. Passenger terminals (water, auto, bus, train);
- O. 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, water tanks, telephone exchange and cell towers;
- P. Transportation facilities;
- Q. Marijuana processors, processing sites, wholesaling and laboratories;
- R. Transitory mobile food units.

17.31.030 - Limited uses.

The following permitted uses, alone or in combination, shall not exceed twenty percent of the total gross floor area of all of the other permitted and conditional uses within the MUE development site or complex. The total gross floor area of two or more buildings may be used, even if the buildings are not

all on the same parcel or owned by the same property owner, as long as they are part of the same development site, as determined by the community development director.

- A. Retail services, including but not limited to personal, professional, educational and financial services, marijuana, laundry and dry cleaning;
- B. Restaurants, eating and drinking establishments;
- C. Retail shops, provided the maximum footprint for a stand-alone building with a single store does not exceed sixty thousand square feet;
- D. Public and/or private educational or training facilities;
- E. Custom or specialized vehicle alterations or repair wholly within a building.

17.31.040 - Conditional uses.

The following conditional uses are permitted when authorized and in accordance with the process and standards contained in OCMC 17.56.

- A. Correctional, detention and work release facilities;
- B. Drive-through facilities;
- C. Hotels, motels and commercial lodging;
- D. Outdoor markets that do not meet the criteria of OCMC 17.31.020.J;
- E. Public utilities and services such as pump stations and sub-stations;
- F. Religious institutions;
- G. Veterinary or pet hospital, dog day care.

17.31.050 - Prohibited uses.

The following uses are prohibited in the MUE district:

- A. Outdoor sales or storage;
- B. Kennels;
- C. Gas/Convenience stations;
- D. Motor vehicle parts stores;
- E. Motor vehicle sales and incidental service;
- F. Heavy equipment service, repair, sales, storage or rental² (including but not limited to construction equipment and machinery and farming equipment);
- G. Recreation vehicle, travel trailer, motorcycle, truck, manufactured home, leasing, rental or storage;
- H. Self-storage facilities;
- I. Marijuana production.

17.31.060 - Dimensional standards.

- A. Minimum lot areas: None.
- B. Minimum Floor Area Ratio: 0.25.
- C. Maximum building height: except as otherwise provided in subsection C.1. of this section building height shall not exceed sixty feet.
 - 1. In that area bounded by Leland Road, Warner Milne Road and Molalla Avenue, and located in this zoning district, the maximum building height shall not exceed eighty-five feet in height.
- D. Minimum required interior and rear yard setbacks if abutting a residential zone: twenty feet, plus one-foot additional yard setback for every one foot of building height over thirty-five feet.
- E. Maximum allowed setbacks: None. Public utility easements may supersede the minimum setback. Maximum setback may be increased per OCMC 17.62.055.D.
- F. Maximum site coverage of the building and parking lot: Eighty percent.
- G. Minimum landscape requirement (including the parking lot): Twenty percent.

The design and development of the landscaping in this district shall:

1. Enhance the appearance of the site internally and from a distance;
2. Include street trees and street side landscaping;
3. Provide an integrated open space and pedestrian way system within the development with appropriate connections to surrounding properties;
4. Include, as appropriate, a bikeway walkway or jogging trail;
5. Provide buffering or transitions between uses;
6. Encourage outdoor eating areas appropriate to serve all the uses within the development;
7. Encourage outdoor recreation areas appropriate to serve all the uses within the development.

17.31.070 - Floor area ratio (FAR).

Floor area ratios are a tool for regulating the intensity of development. Minimum FARs help to achieve more intensive forms of building development in areas appropriate for larger-scale buildings and higher residential densities.

A. Standards.

1. The minimum floor area ratios contained in OCMC 17.29.050 and 17.29.060 apply to all non-residential and mixed-use building development, except stand-alone commercial buildings less than ten thousand square feet in floor area.
2. Required minimum FARs shall be calculated on a project-by-project basis and may include multiple contiguous blocks. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
3. An individual phase of a project shall be permitted to develop below the required minimum floor area ratio provided the applicant demonstrates, through covenants applied to the remainder of the site or project or through other binding legal mechanism, that the required density for the project will be achieved at project build out.

Oregon City Municipal Code

Chapter 17.32 C General Commercial District

17.32.010 - Designated.

Uses in the general commercial district are designed to serve the city and the surrounding area. Land uses are characterized by a wide variety of establishments such as retail, service, office, multi-family residential, lodging, recreation and meeting facilities or a similar use as defined by the Community Development Director.

17.32.020 - Permitted uses.

- A. Banquet, conference facilities and meeting rooms;
- B. Bed and breakfast/boarding houses, hotels, motels, and other lodging facilities;
- C. Child care centers and/or nursery schools;
- D. Drive-in or drive-through facilities;
- E. Gas stations;
- F. Indoor entertainment centers and arcades;
- G. Health and fitness clubs;
- H. Motor vehicle and recreational vehicle sales and/or incidental service;
- I. Motor vehicle and recreational vehicle repair and/or service;
- J. Custom or specialized vehicle alterations or repair wholly within a building.
- K. Medical and dental clinics, outpatient; infirmary services;
- L. Museums, libraries and cultural facilities;
- M. Offices, including finance, insurance, real estate and government;
- N. Outdoor markets, such as produce stands, craft markets and farmers markets;
- O. Postal services;
- P. Passenger terminals (water, auto, bus, train);
- Q. Parks, playgrounds, play fields and community or neighborhood centers;
- R. Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment;
- S. Multifamily residential, 3-4 plex residential, or 1 or 2 units in conjunction with a nonresidential use;
- T. Restaurants, eating and drinking establishments without a drive through;
- U. Services, including personal, professional, educational and financial services; laundry and dry-cleaning;
- V. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores, marijuana, 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;
- W. Seasonal sales;
- X. Assisted living facilities; nursing homes and group homes for over fifteen patients licensed by the state;

- Y. Studios and galleries, including dance, art, photography, music and other arts;
- Z. 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;
- AA. Veterinary clinics or pet hospitals, pet day care;
- BB. Home occupations;
- CC. Research and development activities;
- DD. 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;
- EE. Residential care facility licensed by the state;
- FF. Transportation facilities;
- GG. Live/work dwellings.

17.32.030 - Conditional uses.

The following conditional uses are permitted when authorized and in accordance with the standards contained in OCMC 17.56:

- A. Religious institutions;
- B. Hospitals;
- C. Self service storage facilities;
- D. Public utilities, including sub-stations (such as buildings, plants and other structures);
- E. Public and/or private educational or training facilities;
- F. Parking structures and lots not in conjunction with a primary use;
- G. Emergency service facilities (police and fire), excluding correctional facilities.

17.32.040 - Prohibited uses in the General Commercial District.

The following uses are prohibited in the General Commercial District:

- A. Distribution, wholesaling and warehousing;
- B. Outdoor sales or storage, except secured areas for overnight parking or temporary parking of vehicles used in the business. Sales of products not located under a roof may be allowed if they are located in an area that is architecturally connected to the primary structure, is an ancillary use and is approved through the Site Plan and Design Review process. This area may not exceed fifteen percent of the building footprint of the primary building;
- C. General manufacturing or fabrication;
- D. Heavy equipment service, repair, sales, storage or rental (including but not limited to construction equipment and machinery and farming equipment);
- E. Marijuana production, processing, wholesaling, research, testing, and laboratories;
- F. Mobile food units, except with a special event permit.

17.32.050 - Dimensional standards.

- A. Minimum lot area: None.
- B. Maximum building height: Sixty feet.
- C. Minimum required setbacks if not abutting a residential zone: None.
- D. Minimum required interior and rear yard setbacks if abutting a residential zone: twenty feet, plus one foot additional yard setback for every two feet of building height over thirty-five feet.
- E. Maximum Allowed Setbacks.
 - 1. Front yard setback: Five feet.
 - 2. Interior side yard setback: None.
 - 3. Corner side yard setback abutting street: None

- 4. Rear yard setback: None.

Public utility easements may supersede the minimum setback. Maximum setback may be increased per OCMC 17.62.055.D.F. Maximum site coverage of building and parking lot: Eighty-five percent

- G. Minimum landscaping requirement (including parking lot): Fifteen percent.

- H. Residential minimum net density of 17.4 units per acre, except that no minimum net density shall apply to residential uses proposed above nonresidential uses in a mixed-use configuration or to live/work dwellings.

Oregon City Municipal Code

Chapter 17.34 MUD Mixed Use Downtown District

17.34.010 - Designated.

The mixed-use downtown (MUD) district is designed to apply within the traditional downtown core along Main Street and includes the "north-end" area, generally between 5th Street and Abernethy Street, and some of the area bordering McLoughlin Boulevard. Land uses are characterized by high-volume establishments constructed at the human scale such as retail, service, office, multi-family residential, lodging or similar as defined by the community development director. A mix of high-density residential, office and retail uses are encouraged in this district, with retail and service uses on the ground floor and office and residential uses on the upper floors. The emphasis is on those uses that encourage pedestrian and transit use. This district includes a Downtown Design District overlay for the historic downtown area. Retail and service uses on the ground floor and office and residential uses on the upper floors are encouraged in this district. The design standards for this sub-district require a continuous storefront façade featuring streetscape amenities to enhance the active and attractive pedestrian environment.

17.34.020 - Permitted uses.

Permitted uses in the MUD district are defined as:

- A. Banquet, conference facilities and meeting rooms;
- B. Bed and breakfast/boarding houses, hotels, motels, and other lodging facilities;
- 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. Repair shops, for radio and television, office equipment, bicycles, electronic equipment, shoes and small appliances and equipment;
- L. Multifamily residential, 3-4 plex residential;
- M. 1 or 2 units in conjunction with a nonresidential use provided that the residential use occupies no more than 50% of the total square footage of the development;
- N. Restaurants, eating and drinking establishments without a drive through;
- O. Services, including personal, professional, educational and financial services; laundry and dry-cleaning;
- P. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, specialty stores provided the maximum footprint of a freestanding building with a single store does not exceed sixty thousand square feet (a freestanding building over sixty thousand square feet is allowed as long as the building contains multiple stores);
- Q. Seasonal sales;

- R. Residential care facilities, assisted living facilities; nursing homes and group homes for over fifteen patients licensed by the state;
- S. Studios and galleries, including dance, art, photography, music and other arts;
- T. 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. Veterinary clinics or pet hospitals, pet day care;
- V. Home occupations;
- W. Research and development activities;
- X. 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;
- Y. Transportation facilities;
- Z. Live/work dwellings;
- AA. After-hours public parking;
- BB. Marinas;
- CC. Religious institutions.
- DD. Mobile food units outside of the downtown design district.

17.34.030 - Conditional uses.

The following uses are permitted in this district when authorized and in accordance with the process and standards contained in OCMC 17.56.

- A. Drive-through facilities;
- B. Emergency services;
- C. Hospitals;
- D. Outdoor markets that do not meet the criteria of OCMC 17.34.020.I.;
- E. Parks, playgrounds, play fields and community or neighborhood centers;
- F. Parking structures and lots not in conjunction with a primary use on private property, excluding after-hours public parking;
- G. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies and specialty stores in a freestanding building with a single store exceeding a foot print of sixty thousand square feet;
- H. Public facilities such as sewage and water treatment plants, water towers and recycling and resource recovery centers;
- I. Public utilities and services such as pump stations and sub-stations;
- J. Distributing, wholesaling and warehousing;
- K. Gas stations;
- L. Public and or private educational or training facilities;
- M. Stadiums and arenas;
- N. Passenger terminals (water, auto, bus, train), excluding bus stops;
- O. Recycling center and/or solid waste facility;
- P. Shelters, except within the Downtown Design District.

17.34.040 - Prohibited uses.

The following uses are prohibited in the MUD district:

- A. Kennels;
- B. Outdoor storage and sales, not including outdoor markets allowed in OCMC 17.34.030;
- C. Self-service storage;
- D. Single-Family attached and detached residential units and duplexes;

- E. Motor vehicle and recreational vehicle repair/service;
- F. Motor vehicle and recreational vehicle sales and incidental service;
- G. Heavy equipment service, repair, sales, storage or rental² (including but not limited to construction equipment and machinery and farming equipment);
- H. Marijuana production, processing, wholesaling, research, testing, and laboratories;
- I. Mobile food units within the downtown design district unless a special event has been issued.

17.34.050 - Pre-existing industrial uses.

Tax lot 5400 located at Clackamas County Tax Assessors Map #22E20DD, Tax Lots 100 and two hundred located on Clackamas County Tax Assessors Map #22E30DD and Tax Lot 700 located on Clackamas County Tax Assessors Map #22E29CB have special provisions for industrial uses. These properties may maintain and expand their industrial uses on existing tax lots. A change in use is allowed as long as there is no greater impact on the area than the existing use.

17.34.060 - Mixed-use downtown dimensional standards—For properties located outside of the downtown design district.

- A. Minimum lot area: None.
- B. Minimum floor area ratio: 0.30.
- C. Minimum building height: Twenty-five feet or two stories except for accessory structures or buildings under one thousand square feet.
- D. Maximum building height: Seventy-five feet, except for the following location where the maximum building height shall be forty-five feet:
 - 1. Properties between Main Street and McLoughlin Boulevard and 11th and 16th streets;
 - 2. Property within five hundred feet of the End of the Oregon Trail Center property; or
 - 3. Property abutting single-family detached or attached units.
- E. Minimum required setbacks, if not abutting a residential zone: None.
- F. Minimum required interior side yard and rear yard setback if abutting a residential zone: Fifteen feet, plus one additional foot in yard setback for every two feet in height over thirty-five feet.
- G. Maximum Allowed Setbacks.
 - 1. Front yard: Twenty feet.
 - 2. Interior side yard: No maximum.
 - 3. Corner side yard abutting street: Twenty feet.
 - 4. Rear yard: No maximum.
 - 5. Rear yard abutting street: Twenty feet.
- H. Maximum site coverage including the building and parking lot: Ninety percent.
- I. Minimum landscape requirement (including parking lot): Ten percent.
- J. Residential minimum net density of 17.4 units per acre, except that no minimum net density shall apply to residential uses proposed above nonresidential uses in a vertical mixed-use configuration or to live/work dwellings.

17.34.070 - Mixed-use downtown dimensional standards—For properties located within the downtown design district.

- A. Minimum lot area: None.
- B. Minimum floor area ratio: 0.5.
- C. Minimum building height: Twenty-five feet or two stories except for accessory structures or buildings under one thousand square feet.
- D. Maximum building height: Fifty-eight feet.
- E. Minimum required setbacks, if not abutting a residential zone: None.

- F. Minimum required interior and rear yard setback if abutting a residential zone: Twenty feet, plus one foot additional yard setback for every three feet in building height over thirty-five feet.
- G. Maximum Allowed Setbacks.
 - 1. Front yard setback: Ten feet.
 - 2. Interior side yard setback: No maximum.
 - 3. Corner side yard setback abutting street: Ten feet.
 - 4. Rear yard setback: No maximum.
 - 5. Rear yard setback abutting street: Ten feet.Public utility easements may supersede the minimum setback. Maximum setback may be increased per OCMC 17.62.055.D.
- H. Maximum site coverage of the building and parking lot: Ninety-five percent.
- I. Minimum landscape requirement (including parking lot): 5 percent.
- J. Residential minimum net density of 17.4 units per acre, except that no minimum net density shall apply to residential uses proposed above nonresidential uses in a vertical mixed-use configuration or to live/work dwellings.

17.34.080 - Explanation of certain standards.

- A. Floor Area Ratio (FAR).
 - 1. Purpose. Floor area ratios are a tool for regulating the intensity of development. Minimum FARs help to achieve more intensive forms of building development in areas appropriate for larger-scale buildings and higher residential densities.
 - 2. Standards.
 - a. The minimum floor area ratios contained in OCMC 17.34.060 and 17.34.070 apply to all non-residential and mixed-use building developments.
 - b. Required minimum FARs shall be calculated on a project-by-project basis and may include multiple contiguous blocks. In mixed-use developments, residential floor space will be included in the calculations of floor area ratio to determine conformance with minimum FARs.
 - c. An individual phase of a project shall be permitted to develop below the required minimum floor area ratio provided the applicant demonstrates, through covenants applied to the remainder of the site or project or through other binding legal mechanism, that the required density for the project will be achieved at project build out.
- B. Building height.
 - 1. Purpose.
 - a. The Masonic Hall is currently the tallest building in downtown Oregon City, with a height of fifty-eight feet measured from Main Street. The maximum building height limit of fifty-eight feet will ensure that no new building will be taller than the Masonic Hall.
 - b. A minimum two-story (twenty-five feet) building height is established for the Downtown Design District Overlay sub-district to ensure that the traditional building scale for the downtown area is maintained.

Oregon City Municipal Code

Chapter 17.35 Willamette Falls Downtown District

17.35.010 - Designated.

The Willamette Falls Downtown (WFD) District applies to the historic Willamette Falls site, bordered by 99E to the north and east, and the Willamette River to the west and south. This area was formerly an industrial site occupied by the Blue Heron Paper Mill and is the location of Oregon City's founding. A mix of open space, retail, high-density residential, office, and compatible light industrial uses are encouraged in this district, with retail, service, and light industrial uses on the ground floor and office and residential uses on upper floors. Allowed uses in the district will encourage pedestrian and transit activity. This district includes a downtown design overlay for the historic downtown area. Design guidelines for this sub-district require storefront facades along designated public streets featuring amenities to enhance the active and attractive pedestrian environment.

17.35.020 - Permitted uses.

Permitted uses in the WFD district are defined as:

- A. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies, marijuana pursuant to OCMC 17.54.110, and specialty stores provided the maximum footprint of a freestanding building with a single store does not exceed forty thousand square feet (a freestanding building over forty thousand square feet is allowed as long as the building contains multiple tenant spaces or uses);
- B. Industrial uses including food and beverage production, limited to the design, light manufacturing, processing, assembly, packaging, fabrication and treatment of products made from previously prepared or semi-finished materials, and not to exceed sixty thousand square feet;
- C. Research and development activities;
- D. Offices, including finance, insurance, real estate, software, engineering, design, and government;
- E. Restaurants, eating and drinking establishments without a drive-through, and mobile food units;
- F. Parks, playgrounds, outdoor entertainment space, and community or neighborhood centers;
- G. Museums, libraries, and interpretive/education facilities;
- H. Outdoor markets, such as produce stands, craft markets and farmers markets;
- I. Indoor entertainment centers and arcades;
- J. Studios and galleries, including dance, art, film and film production, photography, and music;
- K. Hotel and motel, commercial lodging;
- L. Conference facilities and meeting rooms;
- M. Public and/or private educational or training facilities;
- N. Child care centers and/or nursery schools;
- O. Health and fitness clubs;
- P. Medical and dental clinics, outpatient; infirmary services;
- Q. Repair shops, except automotive or heavy equipment repair;
- R. Residential units—Multi-family, and 3-4 plex;
- S. Services, including personal, professional, educational and financial services; laundry and dry cleaning;

- T. Seasonal sales;
- 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;
- V. Veterinary clinics or pet hospitals, pet day care;
- W. Home occupations;
- X. Religious institutions;
- Y. Live/work units;
- Z. Water-dependent uses, such as boat docks;
- AA. Passenger terminals (water, auto, bus, train);
- BB. Existing parking, storage and loading areas, as an interim use, to support open space/recreational uses;
- CC. After-hours public parking.

17.35.030 - Conditional uses.

The following uses are permitted in this district when authorized and in accordance with the process and standards contained in OCMC 17.56:

- A. Emergency services;
- B. Hospitals;
- C. Assisted living facilities; nursing homes, residential care facilities and group homes for over fifteen patients;
- D. Parking not in conjunction with a primary use on private property, excluding after-hours public parking;
- E. Retail trade, including grocery, hardware and gift shops, bakeries, delicatessens, florists, pharmacies and specialty stores in a freestanding building with a single store exceeding forty thousand square feet;
- F. Public facilities such as sewage and water treatment plants, water towers and recycling and resource recovery centers;
- G. Industrial uses including food and beverage production, design, light manufacturing, processing, assembly, packaging, fabrication and treatment of products made from previously prepared or semi-finished materials that exceed sixty thousand square feet;
- H. Public utilities and services such as pump stations and sub-stations;
- I. Stadiums and arenas.

17.35.040 - Prohibited uses.

The following uses are prohibited in the WFD district:

- A. Kennels.
- B. Outdoor sales or storage that is not accessory to a retail use allowed in OCMC 17.35.020 or 17.35.030;
- C. Self-service storage;
- D. Distributing, wholesaling and warehousing not in association with a permitted use;
- E. Single-family and two-family residential units;
- F. Motor vehicle and recreational vehicle repair/service;
- G. Motor vehicle and recreational vehicle sales and incidental service;
- H. Heavy equipment service, repair, sales, storage or rental (including but not limited to construction equipment and machinery and farming equipment);
- I. Marijuana production, processing, wholesaling, research, testing, and laboratories;

17.35.050 - Temporary uses.

- A. Temporary activities are short-term or seasonal nature and do not fundamentally change the site. Examples of temporary activities include: movie and TV filming, construction and film staging, and general warehousing. Temporary activities are not considered primary or accessory uses and require a temporary use permit be obtained from the city. The city has a right to deny or condition any temporary use permit if it feels the proposal conflicts with the purpose of the district or to ensure that health and safety requirements are met. Temporary use permits are processed as a Type II land use action.
- B. The following uses may be allowed in the district on a temporary basis, subject to permit approval:
 - 1. Outdoor storage or warehousing not accessory to a use allowed in OCMC 17.35.020 or 17.35.030;
 - 2. Movie and television filming. On-site filming and activities accessory to on-site filming that exceed two weeks on the site are allowed with a city temporary use permit. Activities accessory to on-site filming may be allowed on site, and include administrative functions such as payroll and scheduling, and the use of campers, truck trailers, or catering/craft services. Accessory activities do not include otherwise long-term uses such as marketing, distribution, editing facilities, or other activities that require construction of new buildings or create new habitable space. Uses permitted in the district and not part of the temporary use permit shall meet the development standards of the district;
- C. General Regulations for Temporary Uses.
 - 1. The temporary use permit is good for one year and can be renewed for a total of three years;
 - 2. Temporary activities that exceed time limits in the city permit are subject to the applicable use and development standards of the district;
 - 3. These regulations do not exempt the operator from any other required permits such as sanitation permits, erosion control, building or electrical permits.

17.35.060 - Willamette Falls Downtown District dimensional standards.

- A. Minimum lot area: None.
- B. Minimum floor area ratio (as defined in OCMC 17.34.080): 1.0.
- C. Minimum building height: Two entire stories and twenty-five feet, except for:
 - 1. Accessory structures or buildings under one thousand square feet; and
 - 2. Buildings to serve open space or public assembly uses.
- D. Maximum building height: Eighty feet.
- E. Minimum required setbacks: None. Public utility easements may supersede the minimum setback. Maximum setback may be increased per OCMC 17.62.055.D.
- F. Maximum allowed setbacks: Ten feet.
- G. Maximum site coverage: One hundred percent.
- H. Minimum landscape requirement: None for buildings. Landscaping for parking areas required per OCMC 17.52.

Oregon City Municipal Code

Chapter 17.36 GI General Industrial District

17.36.010 - Designated.

The general industrial district is designed to allow uses relating to manufacturing, processing, production, storage, fabrication and distribution of goods or similar as defined by the community development director. The uses permitted in the general industrial district are intended to protect existing industrial and employment lands to improve the region's economic climate and protect the supply of sites for employment by limiting new and expanded retail commercial uses to those appropriate in type and size to serve the needs of businesses, employees, and residents of the industrial areas.

17.36.020 - Permitted uses.

In the GI district, the following uses are permitted:

- A. Manufacturing and/or fabrication;
- B. Distributing, wholesaling and warehousing, excluding explosives and substances which cause an undue hazard to the public health, welfare and safety;
- C. Heavy equipment service, repair, sales, rental or storage (includes but is not limited to construction equipment and machinery and farming equipment);
- D. Veterinary or pet hospital, kennel;
- E. Necessary dwellings for caretakers and watchmen (all other residential uses are prohibited);
- F. Retail sales and services, including but not limited to eating establishments for employees (i.e. a cafe or sandwich shop) or marijuana , located in a single building or in multiple buildings that are part of the same development shall be limited to a maximum of twenty thousand square feet or five percent of the building square footage, whichever is less and the retail sales and services shall not occupy more than ten percent of the net developable portion of all contiguous industrial lands;
- G. Emergency service facilities (police and fire), excluding correctional facilities;
- H. Outdoor sales and storage;
- I. Recycling center and solid waste facility;
- J. Wrecking yards;
- K. Public utilities, including sub-stations (such as buildings, plants and other structures);
- L. 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;
- M. Storage facilities;
- N. Transportation facilities;
- O. Marijuana production, processing, wholesaling, and laboratories;
- P. Mobile food units operating on a property for less than five hours in a twenty-four hour period.

17.36.030 - Conditional uses.

The following conditional uses are permitted in this district when authorized and in accordance with the standards contained in OCMC 17.56:

- A. Any use in which more than half of the business is conducted outdoors;
- B. Hospitals.

17.36.040 - Dimensional standards.

Dimensional standards in the GI district are:

- A. Minimum lot area, minimum not required;
- B. Maximum building height, three stories, not to exceed forty feet;
- C. Minimum required setbacks:
 - 1. Front yard, ten feet minimum setback;
 - 2. Interior side yard, no minimum setback;
 - 3. Corner side yard, ten feet minimum setback;
 - 4. Rear yard, ten feet minimum setback;

Public utility easements may supersede the minimum setback. Maximum setback may be increased per OCMC 17.62.055.D.

- D. Buffer Zone. If a use in this zone abuts or faces a residential or commercial use, a yard of at least twenty-five feet shall be required on the side abutting or facing the adjacent residential use and commercial uses in order to provide a buffer area, and sight obscuring landscaping thereof shall be subject to site plan review. The community development director may waive any of the foregoing requirements if he/she determines that the requirement is unnecessary in the particular case.
- E. Outdoor storage within building or yard space other than required setbacks and such occupied yard space shall be enclosed by a sight-obscuring wall or fence of sturdy construction and uniform color or an evergreen hedge not less than six feet in height located outside the required yard, further provided that such wall or fence shall not be used for advertising purposes.
- F. Minimum required landscaping (including landscaping within a parking lot): Fifteen percent.

Oregon City Municipal Code

Chapter 17.37 CI Campus Industrial District

17.37.010 - Designated.

The campus industrial district is designed for a mix of clean, employee-intensive industries, and offices serving industrial needs. These areas provide jobs that strengthen and diversify the economy. The uses permitted on campus industrial lands are intended to improve the region's economic climate and to protect the supply of sites for employment by limiting incompatible uses within industrial and employment areas and promoting industrial uses, uses accessory to industrial uses, offices for industrial research and development and large corporate headquarters.

17.37.020 - Permitted uses.

The following uses may occupy up to one hundred percent of the total floor area of the development, unless otherwise described:

- A. Experimental or testing laboratories;
- B. Industrial uses limited to the design, light manufacturing, processing, assembly, packaging, fabrication and treatment of products made from previously prepared or semi-finished materials;
- C. Public and/or private educational or training facilities;
- D. Corporate or government headquarters or regional offices with fifty or more employees;
- E. Computer component assembly plants;
- F. Information and data processing centers;
- G. Software and hardware development;
- H. Engineering, architectural and surveying services;
- I. Non-commercial, educational, scientific and research organizations;
- J. Research and development activities;
- K. Industrial and professional equipment and supply stores, which may include service and repair of the same;
- L. Retail sales and services, including but not limited to eating establishments for employees (i.e. a cafe or sandwich shop) or retail sales of marijuana pursuant to OCMC 17.54.110, located in a single building or in multiple buildings that are part of the same development shall be limited to a maximum of twenty thousand square feet or five percent of the building square footage, whichever is less, and the retail sales and services shall not occupy more than ten percent of the net developable portion of all contiguous industrial lands;
- M. Financial, insurance, real estate, or other professional offices, as an accessory use to a permitted use, located in the same building as the permitted use and limited to ten percent of the total floor area of the development. Financial institutions shall primarily serve the needs of businesses and employees within the development, and drive-through features are prohibited;
- N. 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;
- O. Transportation facilities;
- P. Marijuana processors, processing sites, wholesalers and laboratories pursuant to OCMC 17.54.110;

- Q. Mobile food units operating on a property for less than five hours in a 24-hour period.

17.37.030 - Conditional uses.

The following conditional uses may be established in a Campus Industrial District subject to review and action on the specific proposal, pursuant to the criteria and review procedures in OCMC 17.50 and 17.56:

- A. Distribution or warehousing.
- B. Any other use which, in the opinion of the planning commission, is of similar character of those specified in OCMC 17.37.020 and 17.37.030. In addition, the proposed conditional uses:
 - 1. Will have minimal adverse impact on the appropriate development of primary uses on abutting properties and the surrounding area considering location, size, design and operating characteristics of the use;
 - 2. Will not create odor, dust, smoke, fumes, noise, glare, heat or vibrations which are incompatible with primary uses allowed in this district;
 - 3. Will be located on a site occupied by a primary use, or, if separate, in a structure which is compatible with the character and scale or uses allowed within the district, and on a site no larger than necessary for the use and operational requirements of the use;
 - 4. Will provide vehicular and pedestrian access, circulation, parking and loading areas which are compatible with similar facilities for uses on the same site or adjacent sites.

17.37.040 - Dimensional standards.

Dimensional standards in the CI district are:

- A. Minimum lot area: No minimum required.
- B. Maximum building height: except as otherwise provided in subsection B.1. of this section building height shall not exceed forty-five feet.
 - 1. In that area bounded by Leland Road, Warner Milne Road and Molalla Avenue, and located in this zoning district, the maximum building height shall not exceed eighty-five feet in height.
- C. Minimum required setbacks:
 - 1. Front yard: Twenty feet minimum setback;
 - 2. Interior side yard: No minimum setback;
 - 3. Corner side yard: Twenty feet minimum setback;
 - 4. Rear yard: Ten feet minimum setback.

Public utility easements may supersede the minimum setback. Maximum setback may be increased per OCMC 17.62.055.D.
- D. Buffer zone: If a use in this zone abuts or faces a residential use, a yard of at least twenty-five feet shall be required on the side abutting or facing the adjacent residential or commercial zone in order to provide a buffer area, and landscaping thereof shall be subject to site plan review.
- E. If the height of the building exceeds forty-five feet, as provided in subsection B.1. of this section for every additional story built above forty-five feet, an additional twenty-five foot buffer shall be provided.

17.37.050 - Development standards.

All development within the CI district is subject to the review procedures and application requirements under OCMC17.50, and the development standards under OCMC 17.62. In addition, the following specific standards, requirements and objectives shall apply to all development in this district. Where requirements conflict, the more restrictive provision shall govern:

- A. Landscaping. A minimum of fifteen percent of the developed site area shall be used for landscaping. The design and development of landscaping in this district shall:

1. Enhance the appearance of the site internally and from a distance;
 2. Include street trees and street side landscaping;
 3. Provide an integrated open space and pedestrian system within the development with appropriate connections to surrounding properties;
 4. Include, as appropriate, a bikeway, pedestrian walkway or jogging trail;
 5. Provide buffering or transitions between uses;
 6. Encourage outdoor eating areas conveniently located for use by employees;
 7. Encourage outdoor recreation areas appropriate to serve all the uses within the development.
- B. Parking. No parking areas or driveways, except access driveways, shall be constructed within the front setback of any building site or within the buffer areas without approved screening and landscaping.
- C. Fences. Periphery fences shall not be allowed within this district. Decorative fences or walls may be used to screen service and loading areas, private patios or courts. Fences may be used to enclose playgrounds, tennis courts, or to secure sensitive areas or uses, including but not limited to, vehicle storage areas, drainage detention facilities, or to separate the development from adjacent properties not within the district. Fences shall not be located where they impede pedestrian or bicycle circulation or between site areas.
- D. Outdoor storage and refuse/recycling collection areas.
1. No materials, supplies or equipment, including company owned or operated trucks or motor vehicles, shall be stored in any area on a lot except inside a closed building, or behind a visual barrier screening such areas so that they are not visible from the neighboring properties or streets. No storage areas shall be maintained between a street and the front of the structure nearest the street;
 2. All outdoor refuse/recycling collection areas shall be visibly screened so as not to be visible from streets and neighboring property. No refuse/recycling collection areas shall be maintained between a street and the front of the structure nearest the street.

Oregon City Municipal Code

Chapter 17.39 I Institutional District

17.39.010 - Designated.

The purpose of this district is designed to facilitate the development of major public institutions, government facilities and parks and ensure the compatibility of these developments with surrounding areas. The I—Institutional zone is consistent with the public/quasi public and park designations on the comprehensive plan map.

17.39.020 - Permitted uses.

Permitted uses in the institutional district are:

- A. Private and/or public educational or training facilities;
- B. Parks, playgrounds, playfields and community or neighborhood community centers;
- C. Public facilities and services including courts, libraries and general government offices and maintenance facilities;
- D. Stadiums and arenas;
- E. Banquet, conference facilities and meeting rooms;
- F. Government offices;
- G. Transportation facilities;
- H. Mobile food units.

17.39.030 - Accessory uses.

The following uses are permitted outright if they are accessory to and related to the primary institutional use:

- A. Offices;
- B. Retail (not to exceed twenty percent of total gross floor area of all building);
- C. Child care centers or nursery schools;
- D. Scientific, educational, or medical research facilities and laboratories;
- E. Religious institutions.

17.39.040 - Conditional uses.

Uses requiring conditional use permit are:

- A. Any uses listed under OCMC 17.39.030 that are not accessory to the primary institutional use;
- B. Boarding and lodging houses, bed and breakfast inns;
- C. Cemeteries, crematories, mausoleums, and columbariums;
- D. Correctional facilities;
- E. Helipad in conjunction with a permitted use;
- F. Parking lots not in conjunction with a primary use;
- G. Public utilities, including sub-stations (such as buildings, plants and other structures);
- H. Fire stations;

I. Police Station.

17.39.045 - Prohibited uses.

Prohibited uses in the I district are:

- A. Any use not expressly listed in OCMC 17.39.020, 17.39.030 or 17.39.040;
- B. Marijuana businesses;

17.39.050 - Dimensional standards.

Dimensional standards in the I district are:

- A. Maximum building height: Within one hundred feet of any district boundary, not to exceed thirty-five feet; elsewhere, not to exceed seventy feet.
- B. Minimum required setbacks: Twenty-five feet from property line except when the development is adjacent to a public right-of-way. When adjacent to a public right-of-way, the minimum setback is zero feet and the maximum setback is five feet.
Public utility easements may supersede the minimum setback. Maximum setback may be increased per OCMC 17.62.055.D.
- C. Minimum required landscaping (including landscaping within a parking lot): Fifteen percent.

17.39.060 - Relationship to master plan.

- A. A master plan is required for any development within the I District on a site over ten acres in size that:
 - 1. Is for a new development on a vacant property;
 - 2. Is for the redevelopment of a property previously used as a non-institutional use; or
 - 3. Increases the floor area of the existing development by ten thousand square feet over existing conditions
- B. Master plan dimensional standards that are less restrictive than those of the Institutional District require adjustments. Adjustments will address the criteria of OCMC 17.65.70 and will be processed concurrently with the master plan application.
- C. Modifications to other development standards in the code may be made as part of the phased master plan adjustment process. All modifications shall be in accordance with the requirements of the master plan adjustment process identified in OCMC 17.65.070.

Oregon City Municipal Code

Chapter 17.62 - Site Plan and Design Review

17.62.010 - Purpose.

The purposes of site plan and design review are to: encourage site planning in advance of construction; protect lives and property from potential adverse impacts of development; consider natural or man-made hazards which may impose limitations on development; conserve the city's natural beauty and visual character and minimize adverse impacts of development on the natural environment as much as is reasonably practicable; assure that development is supported with necessary public facilities and services; ensure that structures and other improvements are properly related to their sites and to surrounding sites and structure; and implement the city's comprehensive plan and land use regulations with respect to development standards and policies.

17.62.015 - Modifications that will better meet design review requirements.

The review body shall consider modification of certain site related development standards of this Chapter specified below. These modifications may be approved as part of a Type II design review process.

A. Applicability.

1. This process shall apply to modifications to:
 - a. Landscaping in OCMC 17.62.050.A;
 - b. Vehicular Connections to Adjoining Properties in OCMC 17.62.050.B.2;
 - c. On-site pedestrian circulation in OCMC 17.62.050.C;
 - d. Onsite utility location;
 - e. Building location in OCMC 17.62.055.D;
 - f. Building Details in OCMC 17.62.050.B.9.055.I;
 - g. Windows in OCMC 17.62.050.B.10.055.J Parking Lot Landscaping in OCMC 17.52.060.
2. Modifications that are denied through Type II design review may be requested as a variance through the Variance process pursuant to OCMC 17.60.020 or Master Plan Adjustment pursuant to OCMC 17.65.070 as applicable.
3. Rather than a modification, applicants may choose to apply for a Variance through the Variance process pursuant to OCMC 17.60.020 or Master Plan Adjustment pursuant to OCMC 17.65.070 as applicable.

- ##### **B. The review body may approve requested modifications if it finds that the applicant has shown that the following approval criteria are met:**
1. The modification will result in a development that better meets the applicable design guidelines; and
 2. The modification meets the intent of the standard. On balance, the proposal will be consistent with the purpose of the standard for which a modification is requested.

17.62.030 - When required.

Site plan and design review shall be required for all development of real property in all zones except the low and medium density residential districts, unless otherwise provided for by this title or as a condition of approval of a permit. Site plan and design review shall also apply to all conditional uses, cluster housing developments, multi-family uses, manufactured home parks, and non-residential uses in all zones. Site Plan and Design Review does not apply to activities occurring within the right-of-way except for communication facilities pursuant to OCMC 17.80.

Site plan and design review is required for a change in use between the uses in Table 17.62.030:

Table 17.62.030

| Existing Use | Proposed Use |
|-------------------------|--|
| Residential | Nonresidential use, including but not limited to: commercial, office, industrial, retail, or institutional |
| Single-family or duplex | 3 or more dwellings |

Site plan and design review shall not alter the type and category of uses permitted in the underlying zoning districts.

The general standards of section 17.62.050 do not apply to 3-4 plex, duplex, single-family attached dwellings, single-family detached residential unit, internal conversions, live/work dwelling and accessory dwelling unit Type I applications.

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 17.62.035.A., subject to administrative proceedings described in OCMC 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 and are typically processed concurrently with a building permit application. 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 increase in square footage of a conditional or nonconforming use (excluding nonconforming structures).
 - c. Any proposal in which nonconforming upgrades are required under OCMC 17.58.
 - d. Any proposal in which modifications are proposed under OCMC 17.62.015.
2. The following projects may be processed as a Type I application:
 - a. Addition 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 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. Temporary structures, excluding mobile vendors.
 - d. Removal, replacement or addition of awnings, or architectural projections to existing structures.

- e. Addition, modification, or relocation of refuse enclosure.
 - f. Changes to amount, location, or design of bicycle parking.
 - g. Installation of mechanical equipment.
 - h. Repaving of previously approved parking lots with no change to striping.
 - i. Replacement of exterior building materials.
 - j. 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.
 - k. Addition or alteration of parapets or rooflines.
 - l. Modification of building entrances.
 - m. Addition to or alteration of a legal nonconforming single or two-family dwelling.
 - n. Change to parking lot circulation or layout, excluding driveway modifications.
 - o. 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.
 - p. Adoption of shared parking agreements.
 - q. Changes to landscaping that do not require stormwater quality and quantity treatment under OCMC 13.12.
 - r. New or changes to existing pedestrian accessways, walkways or plazas.
 - s. Installation of or alterations to ADA accessibility site elements.
 - t. Modification or installation of a fence, hedge, or wall, or addition of a fence, hedge or wall.
 - u. Addition of or alterations to outdoor lighting.
 - v. Demolition of any structure or portion of a structure
 - w. Tree removal
 - x. Type I Master Plan Amendments under OCMC 17.65.080.
 - y. Mobile food units in one location for five hours or less as identified in OCMC 17.54.115
 - z. 3-4 plex, duplex, single-family attached dwellings, single-family detached residential unit, internal conversions, live/work dwelling and accessory dwelling unit.
 - aa. Placement of a single manufactured home within an existing space or lot in a manufactured home park.
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 OCMC 17.62.035.A.:
- a. Modification of an office, commercial, industrial, institutional, public or multi-family structure that does not increase 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. Mobile food units in OCMC 17.54.115.
 - e. 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 OCMC 17.50.
 - b. A narrative explaining all aspects of the proposal in detail and addressing each of the applicable criteria listed in OCMC 17.62.
 - 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.

17.62.040 – Items required.

A complete application for Site Plan and Design Review shall be submitted. Except as otherwise in subsection I of this section, the application shall include the following:

- A. A site plan or plans, to scale, containing the following:
- 1. Vicinity information showing streets and access points, pedestrian and bicycle pathways, transit stops and utility locations;
 - 2. The site size, dimensions, and zoning, including dimensions and gross area of each lot or parcel and tax lot and assessor map designations for the proposed site and immediately adjoining properties;
 - 3. Contour lines at two foot contour intervals for grades zero to ten percent, and five-foot intervals for grades over ten percent;
 - 4. The location of natural hazard areas on and within one hundred feet of the boundaries of the site, including:
 - a. Areas indicated on floodplain maps as being within the one-hundred-year floodplain,
 - b. Unstable slopes, as defined in OCMC 17.44.020,
 - c. Areas identified on the seismic conditions map in the comprehensive plan as subject to earthquake and seismic conditions;
 - 5. The location of natural resource areas on and within one hundred feet of the boundaries of the site, including fish and wildlife habitat, existing trees (six inches or greater in caliper measured four feet above ground level), wetlands, streams, natural areas, wooded areas, areas of significant trees or vegetation, and areas designated as being within the natural resources overlay district;
 - 6. The location of inventoried historic or cultural resources on and within one hundred feet of the boundaries of the site;
 - 7. The location, dimensions, and setback distances of all existing permanent structures, improvements and utilities on or within twenty five feet of the site, and the current or proposed uses of the structures;
 - 8. The location, dimensions, square footage, building orientation and setback distances of proposed structures, improvements and utilities, and the proposed uses of the structures by square footage;
 - 9. The location, dimension and names, as appropriate, of all existing and platted streets, other public ways, sidewalks, bike routes and bikeways, pedestrian/bicycle accessways and other

- pedestrian and bicycle ways, transit street and facilities, neighborhood activity centers, and easements on and within two hundred fifty feet of the boundaries of the site;
10. The location, dimension and names, as appropriate, of all proposed streets, other public ways, sidewalks, bike routes and bikeways, pedestrian/bicycle accessways and other pedestrian and bicycle ways, transit streets and facilities, neighborhood activity centers, and easements on and within two hundred feet of the boundaries of the site;
 11. All parking, circulation, loading and servicing areas, including the locations of all carpool, vanpool and bicycle parking spaces as required in OCMC 17.52;
 12. Site access points for automobiles, pedestrians, bicycles and transit;
 13. On-site pedestrian and bicycle circulation;
 14. Outdoor common areas proposed as open space;
 15. Total impervious surface created (including buildings and hard ground surfaces);
 16. The proposed location, dimensions and materials of fences and walls.
- B. A landscaping plan, drawn to scale, showing the location and types of existing trees (six inches or greater in caliper measured four feet above ground level) and vegetation proposed to be removed and to be retained on the site, the location and design of landscaped areas, the varieties, sizes and spacings of trees and plant materials to be planted on the site, other pertinent landscape features, and irrigation systems required to maintain plant materials.
 - C. Architectural drawings or sketches, drawn to scale and showing floor plans, elevations accurately reflected to grade, and exterior materials of all proposed structures and other improvements as they will appear on completion of construction. The name of the adjacent street shall be identified on each applicable building elevation.
 - D. An electronic materials board clearly depicting all building materials with specifications as to type, color and texture of exterior materials of proposed structures. .
 - E. An erosion/sedimentation control plan, in accordance with the requirements of OCMC 17.47 and the Public Works Erosion and Sediment Control Standards, and a drainage plan developed in accordance with city drainage master plan requirements, OCMC 13.12 and the Public Works Stormwater and Grading Design Standards. The drainage plan shall identify the location of drainage patterns and drainage courses on and within one hundred feet of the boundaries of the site. Where development is proposed within an identified hazard area, these plans shall reflect concerns identified in the hydrological/geological/geotechnical development impact statement.
 - F. An exterior lighting plan, drawn to scale, showing type, height, and area of illumination.
 - G. Archeological Monitoring Recommendation. For all projects that will involve ground disturbance, the applicant shall provide:
 1. A letter or email from the Oregon State Historic Preservation Office Archaeological Division indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the Oregon State Historic Preservation Office and that the Oregon State Historic Preservation Office had not commented within forty-five days of notification by the applicant; and
 2. A letter or email from the applicable tribal cultural resource representative of the Confederated Tribes of the Grand Ronde, Confederated Tribes of the Siletz, Confederated Tribes of the Umatilla, Confederated Tribes of the Warm Springs and the Confederated Tribes of the Yakama Nation indicating the level of recommended archeological monitoring on-site, or demonstrate that the applicant had notified the applicable tribal cultural resource representative and that the applicable tribal cultural resource representative had not commented within forty-five days of notification by the applicant.

If, after forty-five days' notice from the applicant, the Oregon State Historic Preservation Office or the applicable tribal cultural resource representative fails to provide comment, the City will

not require the letter or email as part of the completeness review. For the purpose of this section, ground disturbance is defined as the movement of native soils.

- H. Such special studies or reports as the Community Development Director may require to obtain information to ensure that the proposed development does not adversely affect the surrounding community or identified natural resource areas or create hazardous conditions for persons or improvements on the site. The Community Development Director shall require an applicant to submit one or more development impact evaluations as may be necessary to establish that the City's traffic safety or capacity standards, natural resource, including geologic hazard and flood plain overlay districts, will be satisfied.
- I. The Community Development Director may waive the submission of information for specific requirements of this section or may require information in addition to that required by a specific provision of this section, as follows:
 - 1. The Community Development Director may waive the submission of information for a specific requirement upon determination either that specific information is not necessary to evaluate the application properly, or that a specific approval standard is not applicable to the application. If submission of information is waived, the Community Development Director shall, in the decision, identify the waived requirements, explain the reasons for the waiver, and state that the waiver may be challenged on appeal and may be denied by a subsequent review authority. If the matter is forwarded to the Planning Commission for initial review, the information required by this paragraph shall be included in the staff report;
 - 2. The Community Development Director may require information in addition to that required by a specific provision of this section upon determination that the information is needed to evaluate the application properly and that the need can be justified on the basis of a special or unforeseen circumstance as necessary to comply with the applicable standards. If additional information is required, the Community Development Director shall, in the decision, explain the reasons for requiring the additional information.
- J. All new utilities shall be placed underground.
 - 1. Service poles may be allowed on private property when undergrounding service is technically or - physically infeasible.
- K. One full-sized copy of all architectural and site plans.

17.62.050 - General Standards

All development shall comply with the following standards:

- A. Landscaping.
 - 1. Existing native vegetation is encouraged to 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.
 - 2. The amount of landscaping required is found in the standards for each underlying zone. Where the underlying zone does not contain and minimum landscaping standard, the minimum site landscaping shall be 15% of the total site area. Except as allowed elsewhere in Title 16 or 17 of this Code, all areas to be credited towards landscaping shall be installed with growing plant materials.
 - 3. Pursuant to OCMC 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.

4. A landscaping plan shall be prepared by a registered landscape architect for new or revised landscaped areas and parking lots. 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 five hundred square feet of landscaping. All landscape plans shall 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. Plant species listed on the Oregon City Nuisance Plant list are prohibited and native species are encouraged. 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.
 5. Landscaping shall be visible from public thoroughfares to the extent practicable.
 6. The landscaping in parking areas shall not obstruct lines of sight for safe traffic operation and shall comply with all requirements of OCMC 10.32, Traffic Sight Obstructions.
- B. Vehicular Access and Connectivity.
1. Parking areas shall be located behind the building façade that is closest to the street, below buildings, or on one or both sides of buildings.
 2. Existing or future connections to adjacent sites through the use of vehicular and pedestrian access easements which provide connection from the right-of-way to the adjoining property shall be provided.
 3. Parcels larger than three acres shall provide streets as required in OCMC 16.12.
 4. Parking garage entries shall not be more than half of the streetscape.
- C. A well-marked, continuous and protected on-site pedestrian circulation system meeting the following standards shall be provided:
1. Pathways between all building entrances and the street are required. Pathways between the street and buildings fronting on the street shall be direct and not cross a drive aisle. Exceptions may be allowed by the director where steep slopes, a physically constrained site, 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.
 2. The pedestrian circulation system shall connect all main entrances, parking areas, bicycle parking, recreational areas, common outdoor areas, and any pedestrian amenities on the site. For buildings fronting on the street, the sidewalk may be used to meet this standard.
 3. The pedestrian circulation system shall connect the principal building entrance to those of buildings on adjacent sites, except within industrial zoning designations.
 4. Elevated external stairways or walkways shall not extend beyond the building facade except for external stairways or walkways located in, or facing interior courtyard areas that are not visible from the street or a public access easement. This standard does not apply to sky-bridges or sky-ways.
 5. 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.

- D. All development shall maintain continuous compliance with applicable federal, state, and City standards .
- E. Adequate public water and sanitary sewer facilities sufficient to serve the proposed or permitted level of development shall be provided pursuant to OCMC 16.12. 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.
- F. 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 City's Transportation System Plan.
- G. Screening of Mechanical Equipment: Commercial, mixed-use, institutional, and multi-family buildings shall include the following measures to screen or block views of mechanical equipment from adjacent streets according to the following requirements.
 - 1. Rooftop mechanical equipment, including HVAC equipment and utility equipment that serves the structure, shall be screened from view from the adjacent street on all new buildings or building additions. 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 from adjacent streets, as viewed from the sidewalk or future sidewalk location on the adjacent street at pedestrian level. 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. Screening requirements do not apply to new or replacement equipment on existing buildings. New or replacement rooftop mechanical equipment on existing buildings shall be painted or powder-coated.
 - 2. Wall-mounted mechanical HVAC and air conditioning equipment, and groups of multiple utility meters 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 and groups of multiple utility meters, that extend six inches or more from the outer building wall shall be screened from view from adjacent 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. Vents which extend six inches or less from the outer building wall shall exempt from this standard if painted.

3. 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 from the public right of way.
4. This section shall not apply to the installation of solar energy panels, photovoltaic equipment, wind power generating equipment, dishes/antennas, pipes, vents, and chimneys.

H. Building Materials.

1. Prohibited Materials. The following materials shall be prohibited in visible locations from the right-of-way or a public access easement 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, gates for a refuse enclosure, stormwater facilities, when excepted by 17.62.050.H.2.vii, or when located on properties within the General Industrial District).
 - v. Crushed colored rock/crushed tumbled glass.
 - vi. Non-corrugated and highly reflective sheet metal.
 - vii. Tarps, except for the protection of outside storage.
2. Special Material Standards. The following materials are allowed if they comply with the requirements found below:
 - i. Concrete Block. When used for the front façade 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.
 - ii. 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) except when used for a temporary structure.
 - iii. Exterior insulation and finish system (EIFS) and similar 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.
 - iv. Building surfaces shall be maintained in a clean condition and painted surfaces shall be maintained to prevent or repair peeling, blistered or cracking paint.
 - v. Membrane or fabric covered storage areas are permitted as temporary structures, excluding the use of tarps.
 - vi. Vinyl or powder coated chain link fencing is permitted for City-owned stormwater management facilities, reservoirs, and other public works facilities such as pump stations, maintenance yards, and storage yards not located within the General Industrial District.
 - vii. Chain link fencing is permitted in the following circumstances:
 1. Within City-owned parks and recreational facilities
 2. On any property when used for a baseball or softball backstop or dugout, track and field facility, or sports court.

I. Temporary Structures. Temporary structures are permitted pursuant to the following standards:

1. Structures up to two hundred square feet:
 - i. Shall not be on a property for more than three consecutive days; and
 - ii. Shall not be on a property more than six times per year; and
 - iii. Shall comply with the minimum dimensional standards of the zoning designation; and
 - iv. Shall be sited so as to leave the minimum number of parking spaces for the primary uses as required by OCMC 17.52 or as otherwise specified in a land use approval;
 - v. Shall not disturb ingress or egress to the site; and
 - vi. Shall be exempt from all sections of s OCMC 12.08, 16.12, 17.52 and 17.62 except subsections 17.62.050.I and J.
2. Temporary structures larger than two hundred square feet may be permitted up to 2 times per year; and:
 - i. Structures larger than two hundred square feet up to eight hundred square feet:
 - a. Shall not be on a property for more than thirty consecutive days;
 - b. Shall comply with the minimum dimensional standards of the zoning designation;
 - c. Shall be sited so as to leave the minimum number of parking spaces for the primary uses as required by OCMC 17.52 or as otherwise specified in a land use approval;
 - d. Shall not disturb ingress or egress to the site; and
 - e. Shall be exempt from all sections of OCMC 12.08, 16.12, 17.52 and 17.62 except subsections 17.62.050.I and J.
 - ii. Structures larger than eight hundred square feet:
 - a. Shall not be on a property for more than seven consecutive days;
 - b. Shall comply with the minimum dimensional standards of the zoning designation;
 - c. Shall be sited so as to leave the minimum number of parking spaces for the primary uses as required by OCMC 17.52 or as otherwise specified in a land use approval;
 - d. Shall not disturb ingress or egress to the site; and
 - e. Shall be exempt from all sections of OCMC 12.08, 16.12, 17.52 and 17.62 except subsections 17.62.050.I and J.
3. Government owned properties are exempt from all sections of OCMC 12.08, 16.12, 17.52 and 17.62 except subsections 17.62.050.H and I and the dimensional standards of the zoning designation.

L. All new utilities shall be placed underground.

1. Service poles may be allowed on private property when undergrounding service is technically or - physically infeasible.

J. K. Development shall comply with requirements of the following Oregon City Municipal Code chapters, as applicable, including but not limited to:

1. 12.04 Streets, Sidewalks and Public Places
2. 12.08 Public and Street Trees
3. 13.04 Water Service System
4. 13.08 Sewer Regulations
5. 13.12 Stormwater Management
6. 16.12 Minimum Improvements and Design Standards for Development
7. 17.20 Residential Design Standards for ADU's, Cluster Housing, Internal Conversions, Live/Work Units, and Manufactured Home Parks
8. 17.40 Historic Overlay District
9. 17.41 Tree Protection Standards

10. 17.42 Flood Management Overlay District

11. 17.44 Geologic Hazards
12. 17.47 Erosion and Sediment Control
13. 17.48 Willamette River Greenway
14. 17.49 Natural Resource Overlay District
15. 17.50 Administration and Procedures
16. 17.52 Off-Street Parking and Loading
17. 17.54 Supplemental Zoning Regulations and Exceptions
18. 17.58 Lawful Nonconforming Uses, Structures, and Lots
19. 17.65 Master Plans and Planned Unit Development

17.62.55 –Institutional, office, multi-family, retail, and commercial building standards.

- A. Purpose. The primary objective of the regulations contained in this section is to provide a range of design choices that promote creative, functional, and cohesive development that is compatible with surrounding areas. Buildings approved in compliance with these standards are intended to serve multiple tenants over the life of the building, and are not intended for a one-time occupant. The standards encourage people to spend time in the area, which also provides safety through informal surveillance. Finally, this section is intended to promote the design of an urban environment that is built to human scale by creating buildings and streets that are attractive to pedestrians, create a sense of enclosure, provide activity and interest at the intersection of the public and private spaces, while also accommodating vehicular movement.
- B. Applicability. This section applies to institutional, office, multi-family, retail and commercial buildings except accessory structures less than one thousand square feet and temporary structures. .
- C. Conflicts. With the exception of standards for building orientation and building front setbacks, in the event of a conflict between a design standard in this section and a standard or requirement contained in the underlying zoning district, the standard in the zoning district shall prevail.
- D. Siting of Structures. On sites with one hundred feet or more of frontage at least sixty percent of the site frontage width shall be occupied by buildings placed within five feet of the property line. For sites with less than one hundred feet of street frontage, at least fifty percent of the site frontage width shall be occupied by buildings placed within five feet of the property. Multi-family developments shall be placed no farther than twenty feet from the front property line. This section does not apply to properties with less than forty feet of frontage.
A larger front yard setback may be approved through site plan and design review if the setback area incorporates at least one element from the following list for every five feet of increased setback requested:
 1. Tables, benches or other approved seating area.
 2. Cobbled, patterned or paved stone or enhanced concrete.
 3. Pedestrian scale lighting.
 4. Sculpture/public art.
 5. Fountains/Water feature.
 6. At least twenty square feet of landscaping or planter boxes for each tenant facade fronting on the activity area.
 7. Outdoor café.
 8. Enhanced landscaping or additional landscaping.
 9. Other elements, as approved by the Community Development Director, that can meet the intent of this section.
- E. Building Orientation. All buildings along the street frontage shall face the front most architecturally significant facade toward the street and have a functional primary entrance facing the street. Primary

building entrances shall be clearly defined and recessed or framed by a sheltering element such as an awning, arcade or portico in order to provide shelter from the summer sun and winter weather.

F. Entryways. Entrances shall include a doorway and a minimum of four of the following elements:

1. Display windows;

Recesses or projections; Peaked roof or raised parapet over the door; Canopy of at least five feet in depth; Porch; Distinct materials; Architectural details such as tile work and moldings; Pedestrian amenities such as benches, planters or planter boxes; Landscape treatments integrating arbors, low walls, trellis work; or Similar elements. Trellises, canopies and fabric awnings may project up to five feet into front setbacks and public rights-of-way, provided that the base is not less than eight feet at the lowest point and no higher than ten feet above the sidewalk.

G. Corner Lots.

For buildings located at the corner of intersections, the primary entrance of the building shall be located at the corner of the building or within twenty-five feet of the corner of the building. Additionally, one of the following treatments shall be required:

1. Incorporate prominent architectural elements, such as increased building height or massing, cupola, turrets, or pitched roof, at the corner of the building or within twenty-five feet of the corner of the building.
2. Chamfer the corner of the building (i.e. cut the corner at a forty-five degree angle and a minimum of ten feet from the corner) and incorporate extended weather protection (arcade or awning), special paving materials, street furnishings, or plantings in the chamfered area.
3. Standards 1 and 2 above do not apply to vertically attached 3-4 plexes, multi-family buildings or multi-family portions of residential mixed-use buildings.

H. Variation in Massing. For street facing facades greater than 120 feet in length a modulation is required which extends through all floors. Decks and roof overhangs may encroach up to three feet per side into the modulation. The modulation shall meet one of the following dimensional requirements:

1. A minimum depth of two percent of the length of the façade and a minimum width of thirty percent of the length of the façade; or
2. A minimum depth of four percent of the length of the façade and a minimum width of twenty percent of the length of the façade.

I. Building Design Elements.

1. All front and side facades shall provide a design element or architectural feature that add interest and detail such that there are no blank walls of thirty feet in length or more, measured horizontally. Features that can meet this requirement include:
 - a. Change in building material or texture;
 - b. Window or door;
 - c. Balcony; or
 - d. Pillar or post
2. Street facing facades shall include additional design features. For every thirty feet of façade length, three of the following elements are required:
 - a. Decorative materials on more than ten percent of the total wall area (e.g., brick or stonework, shingles, wainscoting, ornamentation, and similar features);
 - b. Decorative cornice and/or roof line (e.g., for flat roofs);
 - c. Roof gable;
 - d. Recessed entry;
 - e. Covered canopy entry;
 - f. Cupola or tower;
 - g. Dormer;

- h. Balcony;
- i. Pillars or posts;
- j. Repeating pattern of building materials;
- k. A change in plane of at least two feet in width and six inches in depth;
- l. Bay or oriel window; or
- m. An alternative feature providing visual relief and detail as approved by the Community Development Director

3. Building Detail Variation. Architectural features shall be varied on different buildings within the same development. At least two of the required features on each street-facing elevation shall be distinct from the street-facing elevations of other buildings within the same development.

J. Windows.

1. The minimum windows requirements are set forth in Table 17.62.055.J. Windows are measured in lineal fashion between 3.5 feet and six feet from the ground. For example, a one hundred foot long building elevation would be required to have at least sixty feet (sixty percent of one hundred feet) of windows in length between the height of 3.5 feet and six feet from the ground.

| Table 17.62.055.J Minimum Windows | | | | |
|---|---|---|----------------------------------|------------------------------------|
| Use | Ground Floor: Front and Street Facing Facades | Upper floor(s): Front and Street Facing Facades | Ground Floor: Side(s) Facades | Upper Floor(s): Side(s) Facades |
| Non-Multi-Family (or Portions of Buildings Thereof) | 60% | 10% | 30% | 10% |
| Multi-Family (or Portions of Buildings Thereof) | 15% | 15% | 10% | 10% |

2. Reflective, glazed, mirrored or tinted glass is limited to ten percent of the lineal footage of windows on the street facing facade. Highly reflective or glare-producing glass with a reflective factor of one-quarter or greater is prohibited on all building facades. Any glazing materials shall have a maximum fifteen percent outside visual light reflectivity value. No exception shall be made for reflective glass styles that appear transparent when internally illuminated.
3. Side walls that face walkways may include false windows and door openings only when actual doors and windows are not feasible because of the nature of the use of the interior use of the building. False windows located within twenty feet of a right-of-way shall be utilized as display windows with a minimum display depth of thirty-six inches.
4. Multi-family windows shall incorporate window trim at least four inches in width when surrounded by horizontal or vertical lap siding.

K. Roof Treatments. The maximum length of any continuous roofline on a street-facing façade shall be seventy-five feet without a cross gable or change in height of at least two feet.

L. Drive-through facilities shall:

1. Be located at the side or rear of the building.
2. Be designed to maximize queue storage on site.

M. Special development standards along transit streets.

1. Purpose. This section is intended to provide direct and convenient pedestrian access to retail, office and institutional buildings from public sidewalks and transit facilities and to promote pedestrian and transit travel to commercial and institutional facilities.

2. Applicability. Except as otherwise provide in this section, the requirements of this section shall apply to the construction of new retail, office and institutional buildings which front on a transit street.
3. Development Standards.
 - a. All buildings shall have at least one main building entrance oriented towards the transit street. A main building entrance is oriented toward a transit street if it is directly located on the transit street, or if it is linked to the transit street by an on-site pedestrian walkway that does not cross off-street parking or maneuvering areas.
 - i. If the site has frontage on more than one transit street, or on a transit street and a street intersecting a transit street, the building shall provide one main building entrance oriented to the transit street or to the corner where the two streets intersect.
 - ii. For building facades over three hundred feet in length on a transit street, two or more main building entrances shall be provided as appropriate and oriented towards the transit street.
 - b. In the event a requirement of this section conflicts with other requirements in Title 17, the requirements of this section shall control.
4. Exemptions. The following permitted uses are exempted from meeting the requirements of subsection 3. of this section:
 - a. Heavy equipment sales;
 - b. Motor vehicle service stations, including convenience stores associated therewith; or
 - c. Solid waste transfer stations.

17.62.56 - Additional standards for large retail establishments.

Retail building(s) occupying more than ten thousand gross square feet of floor area shall contribute to the establishment or enhancement of community and public spaces by providing at least two of the following:

- A. Patio/seating area;
- B. Pedestrian plaza with benches;
- C. Transportation center;
- D. Window shopping walkway;
- E. Outdoor playground area;
- F. Kiosk area, water feature;
- G. Clock tower; or
- H. Other such deliberately shaped area and/or a focal feature or amenity that, in the judgment of the appropriate decision maker, adequately enhances such community and public spaces. Any such areas shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principle materials of the building and landscape.

17.62.57 - Multifamily Usable Open Space Requirements

- A. Intent. Creating areas of usable open space that are easily accessed by residents provides focal points for community recreation and interaction and adds to the overall quality of life for residents. Given the environmental and recreational benefits of common open space, it should be integrated purposefully into the overall design of a development and not merely be residual areas left over after buildings and parking lots are sited.
- B. Open Space Required. All new multi-family developments in all zones shall provide usable open space.

1. In residential zones, each development shall provide a minimum of one hundred square feet of open space per dwelling unit.
2. In non-residential, commercial and mixed-use zones, each development shall provide a minimum of fifty square feet of open space per dwelling unit.
3. Required setback areas shall not count toward the open space requirement unless setback areas are incorporated into spaces that meet all other requirements of this section.
4. Required open space areas may be counted towards both the open space requirements and the minimum landscaping requirements in OCMC 17.62.050.A, if the spaces meet the requirements of both sections.

C. Usable Open Space Types.

1. Common open spaces shall be accessible to all residents of the development and include landscaped courtyards, decks, gardens with pathways, children's play areas, common rooftop decks and terraces, and other multipurpose recreational or green spaces. Common open spaces may be used to meet one hundred percent of the usable open space requirement.

Design standards:

- a. Minimum dimensions for common open space shall be twelve feet with a minimum size of two hundred square feet for developments with twenty units or less, and twenty feet with a minimum size of four hundred square feet for developments with twenty-one or more units.
 - b. Common open space shall feature a mix of natural and recreational amenities to make the area more functional and enjoyable for a range of users. Sites with twenty units or less shall provide a minimum of two of the following amenities, and sites with twenty-one units or more shall provide a minimum of three of the following amenities and an additional amenity for every twenty units over forty, rounded up.
 1. Landscaping areas.
 2. Community gardening areas.
 3. Large trees expected to reach over eighteen inches dbh at maturity.
 4. Seating.
 5. Pedestrian-scaled lighting.
 6. Hard-surfaced pedestrian paths in addition to those required for internal pedestrian circulation.
 7. Paved courtyard or plaza.
 8. Gazebos or other decorative shelters.
 9. Play structures for children.
 10. Sports courts.
 11. An alternative amenity as approved by the Community Development Director.
 - c. Common open space shall be separated from ground level windows, streets, service areas and parking lots with landscaping, low-level fencing, and/or other treatments as approved by the City that enhance safety and privacy for both the common open space and dwelling units.
 - d. Common open space shall be accessible from the dwelling units and, as appropriate, from public streets and sidewalks. The space shall be oriented to encourage activity from local residents.
2. Private open space that is not open to all residents includes balconies, patios, and other outdoor multi-purpose recreational or green spaces. It may be used to meet up to fifty percent of the usable open space requirement.
 - a. Minimum dimensions for private open space shall be five feet with a minimum size of forty square feet.

3. Indoor recreational space may be used to meet up to twenty-five percent of the usable open space requirement provided the space is:
 - a. Accessible to all dwelling units.
 - b. Designed for and includes equipment for a recreational use (e.g., exercise, group functions, etc.).

17.62.059 - Cluster housing.

All cluster housing shall comply with the standards in Chapter 17.20.020 in addition to the standards in this chapter.

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.
 6. Encourage energy efficient lighting with new technologies such as Light Emitting Diodes (LED) or similar to reduce ongoing electrical demand and operating costs.
- B. Applicability.
 1. General.
 - a. All exterior lighting for any type of commercial, mixed-use, industrial, institutional, or multi-family development shall comply with the standards of this section, unless excepted in subsection B.3.
 - b. The City Engineer or 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 shall 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. Design and Illumination Standards.
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.
 2. Lighting shall be provided in parking lots and vehicular circulation areas.
 3. Lighting shall be provided in pedestrian walkways, pedestrian plazas, and pedestrian circulation areas.
 4. Lighting shall be provided at all building entrances.
 5. With the exception of pedestrian scale lighting, all light sources 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.
 6. 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.
 7. Floodlights shall not be utilized to light all or any portion of a building facade between 10 p.m. and 6 a.m.
 8. Lighting on outdoor canopies shall be fully recessed into the canopy and shall not protrude downward beyond the ceiling of the canopy.
 9. All outdoor light not necessary for security purposes shall be reduced, activated by motion sensor detectors, or turned off during non-operating hours.
 10. 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.
 11. For upward-directed architectural, landscape, and decorative lighting, direct light emissions shall not be visible above the building roofline.
 12. No flickering or flashing lights shall be permitted, except for temporary decorative seasonal lighting.
 13. Lighting for outdoor recreational uses such as ball fields, playing fields, tennis courts, and similar uses, are allowed a light post height up to eighty feet in height.
 14. Main building entrances shall be well lighted and visible from any transit street. The minimum lighting level for building entries fronting on a transit street shall be three foot-candles.

17.62.085 - Refuse and recycling standards for commercial, industrial, office, institutional, and multi-family developments.

The purpose and intent of these provisions is to provide an efficient, safe and convenient refuse and recycling enclosure for the public as well as the local collection firm. All new development, change in property use, expansions or exterior alterations to uses, other than single-family or duplex residences, single-family attached dwellings, 3-4 plexes, internal conversions, or accessory dwelling units (ADUs), shall include a refuse and recycling enclosure. The area(s) shall be:

- A. Fully enclosed and visually screened;
- B. Located in a manner easily and safely accessible by collection vehicles;
- C. Located in a manner so as not to hinder travel lanes, walkways, streets or adjacent properties;
- D. On a level, hard surface designed to discharge surface water runoff and avoid ponding;
- E. Maintained by the property owner;
- F. Used only for purposes of storing solid waste and recyclable materials;
- G. Designed in accordance with applicable sections of the Oregon City Municipal Code (including OCMC 8.20—Solid Waste Collection and Disposal) and city adopted policies.

Enclosures are encouraged to be sized appropriately to meet the needs of current and future tenants and designed with sturdy materials which are compatible to the primary structure(s).

17.62.090 – Implementation.

- A. Applications for site plan and design review shall be reviewed in the manner provided in OCMC 16.12 and 17.50. The Building Official may issue a certificate of occupancy only after the improvements required by Site Plan and Design Review approval have been completed, or a schedule for completion and a bond or other financial guarantee have been accepted by the City.
- B. In performing Site Plan and Design Review, the review authority shall consider the effect of additional financial burdens imposed by such review on the cost and availability of needed housing types. Consideration of such factors shall not prevent the imposition of conditions of approval found necessary to meet the requirements of this section. The cost of such conditions of approval shall not unduly increase the cost of housing beyond the minimum necessary to achieve the provisions of this title, nor shall such cost prevent the construction of needed housing types.
- C. The Site Plan and Design Review provisions of this chapter shall not be applied to reduce the density or height of an application for a development project that reserves at least seventy-five percent of the gross floor area for housing where the proposed density or height is at or below what is allowed in the base zone, except in the following situations:
 - 1. Where the reduction in density is required for development subject to historic overlay provision in OCMC 17.40; or
 - 2. Where the reduction in density is necessary to resolve a health, safety or habitability issue, or to comply with the Natural Resource Overlay District regulations of OCMC 17.49, the Geologic Hazard Overlay District regulations of OCMC 17.44, or the Floodplain Management Overlay District regulations of OCMC 17.42 or steep slope regulations.



LEGISLATIVE STAFF REPORT AND RECOMMENDATION

A preliminary analysis of the applicable approval criteria for a legislative proposal is enclosed within the following report. The applicant understands that all applicable criteria shall be met, or met with conditions, in order to be approved. The Planning Commission may choose to adopt the findings as recommended by staff or alter any finding as determined appropriate.

December 28, 2020

HEARING DATE: Planning Commission: September 28, 2020
FILE NUMBER: GLUA 20-00033 LEG-20-00001 Public Works Code Amendments

APPLICATION TYPE: Legislative (OCMC 17.50.170)

APPLICANT: Oregon City Public Works
C/O Josh Wheeler PE, Assistant City Engineer
PO Box 3040
Oregon City, OR 97045

REQUEST: Proposed code revisions to the Geologic Hazards Overlay District, and other ancillary Public Works related development code, including refinements to Public Utility Easements (PUE) and undergrounding utility requirements.

LOCATION(S): City Wide

I. BACKGROUND:

1. Existing Conditions

The City of Oregon City Public Works Department proposes changes to the following sections of the Municipal Code :

- 12.04 Streets, Sidewalks, and Public Places (Ordinance 18-1009, adopted July 3, 2019)
- 13.04 Water Service System (Ordinance 10-1003, adopted July 7, 2010)
- 13.08 Sewer Regulations (Ordinance 10-1003, adopted July 7, 2010)
- 13.24 Telecommunications Facilities (Ordinance 13-1014, adopted November 6, 2013)
- 13.34 Utility Facilities in Public Rights-of-Way (Ordinance 13-1014, adopted November 6, 2013)

- 16.12 Minimum Public Improvements and Design Standards for Development (Ordinance 18-1009, adopted July 3, 2019)
- 17.04 Definitions (Ordinance 18-1009, adopted July 3, 2019)
- 17.08 Low-Density Residential Districts (Ordinance 18-1009; adopted July 3, 2019)
- 17.10 Medium Density Residential Districts (Ordinance 18-1009; adopted July 3, 2019)
- 17.12 High-Density Residential Districts (Ordinance 18-1009; adopted July 3, 2019)
- 17.24 NC Neighborhood Commercial District (Ordinance 18-1009; adopted July 3, 2019)
- 17.26 HC Historic Commercial District (Ordinance 18-1009; adopted July 3, 2019)
- 17.29 MUC Mixed-Use Corridor District (Ordinance 18-1009; adopted July 3, 2019)
- 17.31 MUE Mixed-Use Employment District (Ordinance 18-1009; adopted July 3, 2019)
- 17.32 C General Commercial District (Ordinance 18-1009; adopted July 3, 2019)
- 17.34 MUD Mixed-Use Downtown District (Ordinance 18-1009; adopted July 3, 2019)
- 17.35 Willamette Falls Downtown Design District (Ordinance 18-1009; adopted July 3, 2019)
- 17.36 GI General Industrial District (Ordinance 18-1009; adopted July 3, 2019)
- 17.37 CI Campus Industrial District (Ordinance 18-1009; adopted July 3, 2019)
- 17.39 I Institutional District (Ordinance 18-1009; adopted July 3, 2019)
- 17.44 US Geologic Hazards (Ordinance 10-1003; adopted July 7, 2010)
- 17.52 Off-Street Parking and Loading (Ordinance 18-1009; adopted July 3, 2019)
- 17.62 Site Plan and Design Review (Ordinance 18-1009; adopted July 3, 2019)
- 17.80 Communication Facilities (Ordinance 18-1005; adopted May 2, 2018)

These codes have been established and revised over the years. The most recent adopted revision is stated in parentheses.

2. Project Description

The City of Oregon City Public Works Department is implementing a number of projects which all require various changes to the City Code. Those projects are an enhanced Geologic Hazard Code, an Inflow/Infiltration Reduction Pilot Project, a new policy on Undergrounding Existing Overhead Utilities, and policy on Sidewalk Seating and Obstructions of a Sidewalk. Please refer to the *Detailed Summary of Proposed Changes* and the *GLUA 20-0003 Draft Code Revised August 18, 2020*, attached to the staff report for additional detail. Revision to the draft code that occur during the hearings process will be incorporated in updated versions of these two documents.

The proposed code revisions generally address the need for clarifications in technical development review and to address new policy direction on obstructions in the Right of Way. Larger policy questions about how to strike an appropriate balance between development interests and geologic hazard protections should be addressed during the existing Oregon City Comprehensive Plan Update (www.oc2040.com), which looks at broader community policy within a robust public outreach framework which could result in additional code revisions in the future.

Enhanced Geologic Hazard Code

Oregon City is keenly aware of its location in landslide country and its obligation to reduce and mitigate natural hazards risks in its community. Landslides in Newell Creek Canyon in the 1990s and early 2000s spurred action for the City to enhance geologic reporting and construction

requirements in areas of steep slope initially, and later historic landslides areas with the arrival of Lidar data for the region.

In October 2019, the Department of Land Conservation and Development (DLCD) and the Department of Geology and Mineral Industries (DOGAMI) published a new State landslide hazards document titled “Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities” (Exhibit 9). This document provides cities and counties with a high risk of landslides, such as Oregon City, additional tools and analysis to help them better meet Oregon Land Use Goal 7: Natural Hazards (Exhibit 10) by further reducing landslide risk in their communities. This document provides:

“Landslides are a chronic problem in our state, affecting both infrastructure and private property. Approximately 13,048 documented landslides have occurred in Oregon in the last 150 years The combination of geology, precipitation, topography, and seismic activity makes portions of Oregon especially prone to landslides. The Coast Range and the Cascades Range have the most significant landslide hazards in Oregon; these geographic areas and the valley between them contain the bulk of Oregon’s population. We know that precipitation, earthquakes, and human activity are the main triggers of landslides. While we cannot control precipitation and earthquakes, we can change our human activity. Addressing landslide risk is everyone’s responsibility and is codified in Oregon Revised Statute

(ORS) 195.2533: The Legislative Assembly declares that it is the policy of the State of Oregon that: Each property owner, each highway user and all federal, state and local governments share the responsibility for making sound decisions regarding activities that may affect landslide hazards and the associated risks of property damage or personal injury.”¹

As every jurisdiction chooses how best to respond to risk (legal or geologic) and the need to balance the sometimes competing Oregon Land Use Goals and community’s comprehensive Plan and policies, this important document should not be seen as a prescriptive path or regulatory document with approval criteria. Rather, it should be used as a guide to help evaluate the effectiveness of a jurisdiction’s approach to addressing geologic hazards in their community. Oregon City Development Services, does however, see value in referencing the document in the Geologic Hazards code as a background educational document for the public, applicants, and consultants to better understand the context of geologic hazards in development review.

“DOGAMI and DLCD collaborated on this Guide to help Oregon communities reduce potential losses from landslide events. To do this, we identify land use tools and strategies. The Guide is focused on land use planning approaches to reduce landslide hazard risk and is not intended to address the full range of efforts needed for overall landslide risk reduction and hazard preparedness. Land use planning to reduce landslide hazard risk uses comprehensive plan and implementation provisions (e.g., zoning code, building code, and so forth) and is based on science and policy. Science is a basis for policy, implementation, and decision-making, while policies also shape the science that is pursued and obtained. Much of the expressed need for this Guide (Chapter 4, section C, Key Questions from Interviewees, and Chapter 5, section C, Landslide

¹ Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities, 2019 DOGAMI, DLCD (pages ii)

Guide Interviewees' Key Points) stemmed from communities that pursued and obtained lidar-based land slide mapping with DOGAMI.”²

The Guide is an omnibus look at geologic hazards within Oregon- with a goal of sharing knowledge/provide guidance to both jurisdictions and the general public within the framework of land use review. Chapters topics include types of landslide hazards, the role of geotechnical engineering, types of mitigation, the role of lidar mapping, review of existing codes, and links to other resources. The importance of lidar mapping is a strong theme in the Guide.

“Lidar, a form of laser technology, has significantly increased the ability to locate and map existing landslides. Lidar allows mappers to see the earth’s surface with a much higher level of detail than has ever been available, and as the technology continues to improve, so too does the level of detail. Lidar imagery even allows mappers to see the ground beneath vegetation and trees, as if the earth had been stripped bare. This gives geologists the ability to identify and map landslide features that may have previously been unrecognized or overlooked”³

As one of the earliest pilot areas, Oregon City has been fortunate to have access to Lidar data since 2006, which greatly influenced previous code changes in 2009/2011. Both during the creation of this current Guide and after its adoption, Oregon City staff consulted with staff from both DOGAMI and DLCD to understand the strengths and weaknesses of the current Geologic Hazards code, how it compared to other jurisdictions, and how it could be strengthened.

The Guide identifies the following features of a strong Geologic Hazard Zoning Codes (p.79.):

- Are supported by and incorporate the best available science-based landslide hazard maps and analysis.
- Have clear submittal requirements and approval criteria.
- Employ factors in addition to slope to determine when a geotechnical report is required.
- Define and establish the qualified geoprofessional(s) for the required report in accordance with state licensing regulations.
- Require geotechnical reports to determine whether a proposed development is within the community’s risk tolerance level and to properly condition development.
- Link requirements to degree of risk and geotechnical report recommendations.
- Address soil stabilization through grading, erosion control, vegetation management, and water management.
- Require monitoring by the geotechnical report author during construction.
- Are enforced.
- Contain strong grading, erosion control, and land use planning codes. These codes provide clarity in what is applicable; protect the people, property, and environment; and are effective in limiting or preventing deleterious soil movement.
- Are based on maps and reports that provide details on the hazard areas.

² Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities, 2019 DOGAMI, DLCD (page 2)

³ Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities, 2019 DOGAMI, DLCD (pages 2-3)

- Include specific references to the materials used to establish the code provisions (such as maps and reports) and have those materials adopted and incorporated into the regulatory provisions;
- Have clearly identified application materials (with checklists and handouts to help explain the information) and processes of review.
- Have information located on the community's website so that the code is clear and accessible.
- Have replaced outdated Unified Building Code or UBC references with current International Building Code or IBC references in the code.

In October 2019, DLCD and DOGAMI presented their new landslide guide to the Oregon City City Commission. The City Commission directed staff to review the current city code and determine if any enhancements were needed to achieve these objectives.

As part of furthering this effort, DLCD and DOGAMI commended Oregon City for its use of lidar data and generally meeting all the requirements for a strong geohazard code; however, they recommended improved tracking and reporting post development approval. Since that time, City staff have mapped in the City's GIS system all available geotechnical reports and indemnity agreements received from developers so that this information is now available to the public. In addition, staff identified areas where the code was inconsistent, ambiguous or was the source of confusion for applicants and revisions are proposed to address those issues.

The revisions proposed in this code update provide clarification to existing standards, references the new landslide guide, and codifies the waiver program the City currently follows. Construction specifications, calendar exceptions, and retaining wall standards have also been added. Density, review standards, and stormwater standards have been further clarified. In addition to providing additional data, these standards largely codify existing practice. As mentioned above, the more robust policy discussion about the extent to which development on steep slopes should be limited or development interests protected is reserved for consideration with the new comprehensive plan.

Inflow/Infiltration Reduction Pilot Project

This Pilot Project implements new construction recommended from the Sanitary Sewer Master Plan. Construction recommendations including capital improvement projects. Those projects include installing new storm sewers that will allow disconnection of existing storm sewers from the sanitary sewer system. The Plan also recommends the disconnection of private storm sewers from the sanitary sewer system as well as repair of private sanitary sewer laterals. These two construction projects will reduce inflow and infiltration, respectively, minimizing the amount of stormwater treated at the Tri-City Wastewater Treatment Plant. The Pilot Project is a 5-year project within the McLoughlin and Rivercrest neighborhoods. By using flow monitoring pre and post-construction, the City will determine the success of the Pilot Project. If successful and if budget allows, the City will continue beyond these neighborhoods into other areas of the City.

To implement this project, City Code and Sanitary Sewer Design Standards and Chapter 13.08 of the Oregon City Municipal Code need to be amended to address cross-connections, right of entry, condition of service lines, sewer rates, service lateral improvement program, and reduced rates. Other sections: failure to comply with rules and unlawful substances have also been

revised. Language has been proposed referencing the state administrative rule outlining that property on septic must connect to City sewer if the septic is failing and if that property is physically (of the proper elevation and within 300 feet) and legally available (in city limits or able to be annexed) to the existing public sewer. The code also now proposes to explicitly disallow any cross-connections - any place where connections of storm sewer connect with sanitary sewer. New party line sewers are proposed to be prohibited. Property owners are explicitly required to keep their pipes in good condition to prevent infiltration. The proposed code change also gives the right of public works staff to enter the property so that a service can be televised and inspected. The proposed code changes clarify the sewer rate establishment and reduced rate program to be in line with the water rate program. The service lateral improvement program is also proposed to be codified. Lastly, these code revisions designate the following as unlawful substances within sewer lines: Stormwater, Surface water, groundwater, roof runoff, and subsurface drainage. This follows standards engineering practice. A section prohibiting sending stormwater or groundwater to the sanitary sewer system has also been proposed.

In addition to these changes, staff has taken the opportunity to review the entire sanitary sewer Code - Section 13.08 - to ensure it meets best practices and standards. As a result, the code relating to Sewer Connection – Exemptions, Connections to Existing Work, and Applications Outside City Limits have been revised.

Revisions have also been proposed to Section 13.04 of the Oregon City Municipal Code – Water Service - in order to comply with the Sewer Code of 13.08. Various clarifications have been added to be in conformance with current practices and to be consistent with changes in 13.04.

The Sanitary Sewer Design Standards have proposed revisions to add that no stormwater should be conveyed to the sanitary sewer system. In addition, staff took advantage of the Standards being open to allow for for a greater number construction materials and processes to be used as well as changes to Drop Manholes to be in conformance with the current industry standards.

Undergrounding Existing Overhead Utilities Policy

The City of Oregon City Municipal Code currently requires all development to place utility lines underground. This code has been interpreted to apply to all new utilities as well as existing utilities. With the rising cost of moving existing utilities underground, the City is proposing changes to existing code to reduce the requirement to only those properties where undergrounding will have a greater impact and where it is proportional to do so.

The proposed changes create limits of when an existing overhead line must be placed underground-if the property is at least 200 feet long, at least 1.0 acre in size, or if the subdivision is 6 lots or more, the undergrounding requirement is waived for existing overhead lines. The code changes propose to more specifically define the public utility easement, being 10 feet in most zones, and 5 feet in certain other urban zones. This addresses a conflict that has existed within practice, policy, and the code for quite some time. Definitions of Easement have been updated to be consistent throughout code.

Sidewalk Obstructions Policy

In December 2019, the City Commission requested a review of the current ROW obstruction policies. In response, a new written policy outlining current practices of the Department with respect to the permitting of sidewalk seating and sidewalk obstructions in the downtown area

and 7th Street and amendments to Chapter 12.04 are proposed. These amendments more clearly define the types of obstructions that require a permit.

It should be noted that in summer 2020, the City Commission passed a resolution to waive the fee for sidewalk seating and allow the use of parklets in the right-of-way to address business needs during COVID-19. These code changes are separate from that Resolution. The purpose of the code change is to add a 3rd type of obstruction called 'temporary long term', which would be for temporary items (not attached to the ground) for a period of 61-365 days. The current code defines a temporary item for 0-60 days, and a permanent (attached) obstruction has an indefinite time period.

If adopted, this code change more clearly defines the temporary use of the right of way for items like sidewalk seating or parklets when meeting criteria set forth by the Public Works Department thru consultation with the City Commission.

1. **To implement the above projects, The City of Oregon City Public Works Department anticipates adopting revisions to the following chapters by Ordinance.** Please refer to the Detailed Summary of Proposed Changes for more information on specific recommend changes.

- 12.04 Streets, Sidewalks, and Public Places
- 13.04 Water Service System
- 13.08 Sewer Regulations
- 13.24 Telecommunications Facilities
- 13.34 Utility Facilities in Public Rights-of-Way
- 16.12 Minimum Public Improvements and Design Standards for Development
- 17.04 Definitions
- 17.08 Low-Density Residential Districts
- 17.10 Medium Density Residential Districts
- 17.12 High-Density Residential Districts
- 17.24 NC Neighborhood Commercial District
- 17.26 HC Historic Commercial District
- 17.29 MUC Mixed-Use Corridor District
- 17.31 MUE Mixed-Use Employment District
- 17.32 C General Commercial District
- 17.34 MUD Mixed-Use Downtown District
- 17.35 Willamette Falls Downtown Design District
- 17.36 GI General Industrial District
- 17.37 CI Campus Industrial District
- 17.39 I Institutional District
- 17.44 US Geologic Hazards
- 17.52 Off-Street Parking and Loading
- 17.62 Site Plan and Design Review
- 17.80 Communication Facilities

The City of Oregon City Public Works Department also proposes the following changes be adopted by Ordinance:

- Sanitary Sewer Design Standards
- Engineering Fee Schedule- (*adopting a new fee for Temporary Long-Term ROW obstruction through a separate process after code amendment approval*)

-

The City of Oregon City Public Works Department also proposes the following changes be adopted by Resolution:

- Sidewalk Obstructions Policy
- Undergrounding Private Utilities Policy

3. Public Notice and Comments

Public Works staff presented the proposal to the public at the following public meetings:

- Citizen Involvement Committee – December 2, 2019
 - o Discussed Inflow/Infiltration Policy
 - o Discussed Undergrounding Overhead Utility Policy
- Development Stakeholders Group – November 14, 2019, and February 13, 2020 (No published meeting minutes available for the 2-12-20 meeting)
 - o Discussed Inflow/Infiltration Policy
 - o Discussed Undergrounding Overhead Utility Policy
 - o Discussed revisions to Geologic Hazards Code
- City Commission Work Session Meeting – December 10, 2019
 - o Discussed Existing unwritten sidewalk policy
- City Commission Work Session Meeting – October 8, 2019
 - o Presentation by DLCD and DOGAMI of new Landslide Guide (No published meeting minutes available)
- Planning Commission – September 23, 2019 (No published meeting minutes available)
 - o Overview of existing Geologic Hazard Code and preview during LEG 19-00003
- City Commission Work Session – June 9, 2020
 - o Presentation of Geologic Hazards Code
- Natural Resource Committee – June 10, 2020
 - o Presentation of Geologic Hazards Code
- City Commission Work Session – June 7, 2020
 - o Presentation of Sidewalk Obstructions and Chapter 16 and 17 revisions
- City Commission Work Session – May 20, 2020
 - o Presentation of Chapter 13 revisions on utilities
- September 23, 2020 Online Geologic Hazards Community Forum. Noticed as part of the Measure 56 Land Use Notice (Exhibit 11)

Only one written comment from AKS Engineering (Exhibit 12a) was received by the public at any of these informational meetings. AKS recommended revisions to sewer specifications, which were added to the revised Sanitary Sewer Design Standards as they provide additional direction for constrained areas and incorporated them into the proposed document.

GLUA 20-00033 LEG-20-00001 Public Works Code Amendments Land Use Public Comment

An overview of the public comment categories submitted to date can be found below. They are separated into technical questions and more policy questions. Please refer to the public comments matrix attached as an exhibit to this staff report for additional detail. The matrix will be updated throughout the Public Hearings process.

Technical Questions

“Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities” (Exhibit 9) As discussed above, the Guide will be added as a reference document in OCMC 17.44 Geologic Hazards this document should not be seen as a prescriptive path or regulatory document with approval criteria. Oregon City Development Services, does, however, see value in referencing the document in the Geologic Hazards code as a background educational document for the public, applicants, and consultants to better understand the context of geologic hazards in development review.

The text of Oregon Land Use Goal 7 should be added or referenced in the code.

Goal 7, Areas Subject to Natural Hazards (Oregon DLCD, is one of the 19 Oregon Statewide Planning Goals.) It contains both requirements and guidelines that are intended to be implemented by local governments as part of their comprehensive plan and zoning efforts. As part of this planning effort, Goal 7 objectives must be balanced against the other goals and implemented in a way that makes sense for Oregon City. Evaluating and balancing the policy objectives set forth in the Goals is done on a city-wide legislative basis rather than as part of individual quasi-judicial development reviews as a means to streamline review as well as avoid ad hoc decision-making. Rather than adopt Goal 7 as a code criterion, the City has elected to rely on the joint DLCD and DOGAMI created Guide, discussed above, which provides more specific guidance on how to best implement the requirements of Goal 7. In fact, DLCD and DOGAMI staff have never raised any concerns that the current Geologic Hazards code does not meet Goal 7 requirements.

How do we trust the staff with the probability of risk based on existing data?

Acknowledging that there is always some risk with any development anywhere, City staff and its licensed consultants are the most qualified to evaluate this risk. They are educated, trained, hold professional engineering licenses and years of experience,. City staff also have geotechnical consultants available through on-call contracts to seek advice and analysis when a second opinion is appropriate. . Staff also rely on the Lidar data provided through DOGAMI and have relationships with DLCD and DOGAMI when needed, additional advisement is warranted.

Need to ensure an active discovery process during construction and not rely on applicant consultants

The City does not rely solely on an applicant consultant. Rather, in addition to staff qualification, the City has four geotechnical consultants available for on-call services. These consultants all have professional engineers, geologists, and structural engineers who can design, analyze, and advise on development or properties that are proposing to do work within a mapped geologic hazard.

Policy Questions Reserved for the 2040 Comprehensive Plan

Clackamas County Multi-Jurisdictional Natural Hazard Mitigation Plan should be added to Comprehensive Plan as part of this project. In 2019, Clackamas County updated this Multi-Jurisdictional Natural Hazards Mitigation Plan (NHMP) to prepare for the long-term effects resulting from hazards. As part of this process, Oregon City also created an updated addendum that is incorporated as part of that

Plan. The relevant substance of the updated Plan and addendum will be considered in the upcoming Comprehensive Plan update process, and specific sections may be added or referenced as part of that review.

Holly Lane should be removed from Transportation System Plan, and a grade-separated interchange should be added to the intersection of Highway 213 and Beavercreek Road based on geohazard of Holly Lane area. As part of the 2013 Transportation Plan update, the City removed the grade-separated interchange at 213 and Beavercreek Road as a transportation project. Any discussion about Transportation Plan projects and their relationship with natural hazards can and should occur during the upcoming Comprehensive Plan update process, where these larger policy questions can be discussed with the context of all the State Land Use Goals and Oregon City Comprehensive Plan policies.

OCMC 17.44 Geologic Hazard Overlay should further restrict development. Oregon City is not doing enough, especially in very high-risk areas, and reductions in density should not be based on lots of record; they should be based on the area of the historic landslide. Any large-scale changes in the Geologic Hazards code that affect larger policy questions, such as striking the best balance between housing needs, hazard risk, and property rights, will be addressed during the existing Oregon City Comprehensive Plan Update (www.oc2040.com), which looks at broader community policy within a robust public outreach framework and could result in additional code revisions in the future.

II. DECISION-MAKING CRITERIA

Chapter 17.68 - Zoning Changes and Comprehensive Plan Amendments

17.68.010 - Initiation of the amendment.

A text amendment to the comprehensive Plan, or an amendment to the zoning code or map or the Comprehensive Plan map, may be initiated by:

- A. A resolution request by the City Commission;*
- B. An official proposal by the Planning Commission;*
- C. An application to the Planning Division; or.*
- D. A Legislative request by the Planning Division.*

All requests for amendment or change in this title shall be referred to the Planning Commission.

Finding: Complies as Proposed. The proposal qualifies as initiated as a legislative request by the Public Works Director.

17.68.015 –Procedures.

Applications shall be reviewed pursuant to the procedures set forth in Chapter 17.50.

17.50.170 - Legislative hearing process.

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 shall 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.

Finding: Complies as Proposed. This legislative action will follow the procedures found in OCMC 17.50.170 including meetings with the Planning Commission, and City Commission where applicable.

17.68.020 - Criteria.

The criteria for comprehensive plan amendment or text or map amendment in the zoning code are set forth as follows:

A. The proposal shall be consistent with the applicable goals and policies of the comprehensive Plan;

Finding: Complies as Proposed. This legislative action will be consistent with the applicable goals and policies of the Comprehensive Plan. Therefore, the proposed amendments are consistent with Criterion (A).

The proposed code changes implement several ancillary plans to the Oregon City Comprehensive Plan. Regular Updates to Ancillary Documents like the Sewer Master Plan assure consistency with the Oregon City Comprehensive Plan. The applicable sections of the Comprehensive Plan are addressed below as well as State Land Use Goals. No revisions to the Master Plans or Comprehensive Plan are proposed.

The 2004 Oregon City Comprehensive Plan contains criteria for approving changes to the comprehensive Plan and ancillary documents. Review of the Comprehensive Plan should consider:

1. Plan implementation process.
2. Adequacy of the Plan to guide land use actions, including an examination of trends.
3. Whether the Plan still reflects community needs, desires, attitudes and conditions. This shall include changing demographic patterns and economics.
4. Addition of updated factual information including that made available to the City of regional, state and federal governmental agencies.

“Statements of Principle - Page 3.

Provide efficient and cost-effective services. Water, sewer, fire protection, police services, streets, storm drainage, and other public services are directly affected by land-use decisions. This Plan ensures that land-development decisions are linked to master plans for specific services such as water or sewer and to capital improvement plans that affect budgets and require taxes to build. The City Commission believes that citizens are economically well-served through compact urban form, redevelopment of existing areas, and public investments (for example, street improvements) that are carefully tied to private investments when development occurs.”

“Implementing the Plan – Page 4

The Oregon City Comprehensive Plan is implemented through City Codes, **ancillary plans**, concept plans, and master plans.

Ancillary plans are adopted by the City Commission for such things as parks and recreation, transportation systems, water facilities, and sewer facilities. Usually prepared by City departments through a public process, ancillary plans are approved by the City Planning Commission and adopted by the City Commission to provide operational guidance to city departments in planning for and carrying out city services. These plans are updated more frequently than the comprehensive Plan.”

“Ancillary Plans. – Page 15

Since 1982, several documents have been adopted as ancillary to the 1982 Comprehensive Plan: the *Public Facilities Plan* (1990), *Oregon City Transportation System Plan* (2001), *Oregon City Downtown Community Plan* (1999), *Oregon City Waterfront Master Plan* (2002), *City of Oregon City Water Master Plan* (2003), *City of **Oregon City Sanitary Sewer Master Plan (2003)***, *Drainage Master Plan* (1988, updated in 1999 as the *City of Oregon City Public Works Stormwater and Grading Design Standards*), *Caufield Basin Master Plan* (1997), *South End Basin Master Plan* (1997), *Molalla Avenue Boulevard and Bikeway Improvements Plan* (2001), the *Oregon City Park and Recreation Master Plan* (1999), and the *Oregon City Trails Master Plan* (2004).”

Applicable Comprehensive Plan and Statewide Planning Goals and Policies

Goal 7.1 Natural Hazards

Protect life and reduce property loss from the destruction associated with natural hazards.

Policy 7.1.1

Limit loss of life and damage to property from natural hazards by regulating or prohibiting development in areas of known or potential hazards.

Policy 7.1.8

Provide standards in City Codes for planning, reviewing, and approving development in areas of potential landslides that will prevent or minimize potential landslides while allowing appropriate development.

Finding: Complies as Proposed. This legislative update includes revisions to the Geologic Hazard Code Chapter 17.44. The goal of the code amendments is to address concerns we have heard from the public and the elected officials as well as ensure the code conforms to the document titled “Preparing for Landslide Hazards : A Land Use Guide for Oregon Communities” which was published in October 2019 by the Department of Land Conservation and Development (DLCD) and the Department of Geology and Mineral Industries (DOGAMI).

Although the revisions do not map any new or expand existing mapped landslide areas or steep slopes, the revisions provide clarity and consistency between when the geologic hazard code applies and when development is exempt. The revisions include a reference to the new State landslide document. This reference is made in addition to other State Documents that are to be referenced when reviewing a site

for geologic hazards. It is merely another reference to ensure a fully thought out review of the mapped geologic hazard. The revisions also include additional requirements to address stormwater impacts to a mapped geologic hazard and clarifies that an existing mapped geologic hazard can include steep slopes or historic landslide areas.

Other miscellaneous improvements have been made. The waiver process that the City has been using via in-house policy is now proposed to be codified. Additional criteria have been added to determine when a site work may occur outside of the codified months of the year. Retaining wall design requirements have been added. Language has been added, ensuring indemnification documents are recorded and run with the property.

These revisions improve or enhance the protection of life and property by implementing current scientific understanding of landslide susceptibility for lands currently mapped within the Geologic Hazard Overlay, ensuring that these conditions will be addressed by the applicants during the development review process. Including the DOGAMI landslide guide as an application submittal requirement will offer city staff and its consultants a better understanding of current conditions allowing them to make decisions about development that will reduce the likelihood of loss of life or property.

Goal 9.1 Improve Oregon City's Economic Health

Provide a vital, diversified, innovative economy including an adequate supply of goods and services and employment opportunities to work toward an economically reasonable, ecologically sound and socially equitable economy

Finding: Complies as Proposed. This legislative code update will continue to provide a vibrant economy by ensuring downtown businesses can use sidewalks in a way that is beneficial, by reducing stormwater from entering the sanitary system reducing unneeded treatment at the sewer treatment plant which in turn keeps rates low, and by exempting smaller developments from the requirement of relocating overhead utilities underground in turn reducing the cost to develop.

The Sidewalk Code in Chapter 12.04 is proposed to be amended to include standards for sidewalk seating in the right of way as a long term permanent obstruction. This will allow seating to be used for downtown businesses in a way that supplements the business while also allowing for pedestrian movements. This will help in the economic vitality of those businesses. The code amendment also allows for businesses to provide sidewalk sales on a seasonal basis, whereas currently, the code restricts those sales. This amendment should also assist in the economic vitality of those businesses.

The sewer code amendments set forth in OCMC 13.08 will be amended to require that all stormwater be redirected from the sanitary system back to the stormwater system. Currently, due to the City originally consisting of a combined sewer system, many older areas of the City remain connected improperly to the sanitary system, which contributes unnecessary flows to the Tri-City Wastewater Treatment Plant. As that Plant near capacity, rates and system development charges have had to be raised to add new infrastructure. This code amendment will reduce the flows and ensure that no future expansion will be needed beyond what new housing requires. The effect will be to stabilize sewer rates and system development charges rather than a continued substantial increase to those fees.

Amendments to OCMC Chapter 16.12 will exempt the current requirement that all existing overhead utilities be relocated underground. This imposes an undue burden on smaller developments with very little benefit to the neighborhood. While undergrounding is a requirement that reduces visual air

pollution, which can stagnate property values, it only makes an impact when completed in a larger manner. This code amendment has the potential to retain or improve property values while also reducing the burden on developments.

Goal 9.2 Cooperative Partnerships

Create and maintain cooperative partnerships with other public agencies and business groups interested in promoting economic development.

Policy 9.2.1

Seek input from local businesses when making decisions that will have a significant economic impact on them.

Policy 9.2.2

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

Policy 9.2.3

Simplify, streamline, and continuously improve the permitting and development review process.

Finding: Complies as Proposed. This legislative code amendment has been proposed as a response to what other public agencies, local business, and citizens have conveyed to the City.

Tri-City Sewer Treatment Plant, operated by Water Environment Services(WES), is nearing capacity, and WES has requested a reduction of stormwater flows into the sanitary sewer system. This is completed by inflow and infiltration reduction and is implemented by policy and code changes in OCMC Chapter 13.08.

The Downtown Oregon City Association and Oregon City Chamber of Commerce are partners with respect to the vitality of downtown businesses. The Chamber of Commerce requested the City review its policies with respect to sidewalk obstructions and temporary obstructions. Proposed amendments to OCMC Chapter 12.04 are in response to this request.

In October, 2019, DOGAMI / DLCD issued a document entitled "Preparing for Landslide Hazards: A Land Use Guide for Oregon Communities.". In response, the Oregon City Planning Commission, the Oregon City City Commission, and citizens, proposed amendments to OCMC Chapter 17.44 have to address the Guide recommendations.

The Oregon City Development Stakeholders Group (DSG) requested the City look at the requirement to underground existing overhead utilities. During this investigation, the City met with Portland General Electric(PGE) to discuss the reasons this requirement has become expensive compared to previous years. In that discussion, a conversation also occurred concerning the provision for a Public Utility Easement (PUE) commonly used for electric, gas, telephone, cable, fiberoptic franchise utilities. While OCMC Chapters 13.24 and 13.34 provide regulation on franchise utilities, the development code had only minor references to the PUE. The code amendments within OCMC Chapter 16.12 reflect the discussions with not only PGE and the DSG, but also the City of Oregon City Community Development Department. These discussions led to the proposed revisions of not only reducing the undergrounding requirement but also more clearly regulating the provision for and use of the PUE.

All revisions relate to economic impacts and are intended to streamline the development process by providing clarity and common-sense solutions recommended by these proposed revisions.

Goal 11.1 Provision of Public Facilities

Serve the health, safety, education, welfare, and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.

Policy 11.1.2

Provide public facilities and services consistent with the goals, policies and implementing measures of the Comprehensive Plan, if feasible.

Policy 11.1.4

Support development on underdeveloped or vacant buildable land within the city where public facilities and services are available or can be provided and where land-use compatibility can be found relative to the environment, zoning, and Comprehensive Plan goals.

Policy 11.1.5

Design the extension or improvement of any major public facility and service to an area to complement other public facilities and services at uniform levels.

Policy 11.1.7

Develop and maintain a coordinated Capital Improvements Plan that provides a framework, schedule, prioritization, and cost estimate for the provision of public facilities and services within the City of Oregon City and its Urban Growth Boundary.

Finding: Complies as Proposed. This legislative code amendment relates to the provision of public facilities while also implementing Capital Improvement Plans.

Concerning proposed amendments to OCMC Chapter 12.04 on sidewalks and temporary obstructions, the purpose is to ensure the public sidewalk is maintained for use by the public while also allowing it to be used for seating for adjacent businesses.

Concerning proposed amendments to OCMC Chapter 13.08, the sewer amendments implement plans and programs set forth in the Sanitary Sewer Master Plan.

Proposed amendments to OCMC Chapter 16.12 provide a clearer definitive space for the franchise utilities to be located so that their service can be provided to all developments with ease of maintenance and reduced disruption of service.

Proposed amendments to OCMC Chapter 17.44 support safe development on underdeveloped or vacant buildable land where utilities exist and ensure that these developments are designed in a safer, effective, and more sustainable manner based on the current science available for geologic hazards.

Goal 11.2 Wastewater

Seek the most efficient and economic means available for constructing, operating, and maintaining the City's wastewater collection system while protecting

the environment and meeting state and federal standards for sanitary sewer systems.

Policy 11.2.2

Plan, operate and maintain the wastewater collection system for all current and anticipated city residents within the existing Urban Growth Boundary. Plan strategically for future expansion areas.

Policy 11.2.4

Seek economical means to reduce inflow and infiltration of surface- and groundwater into the wastewater collection system. As appropriate, plant riparian vegetation to slow stormwater, and to reduce erosion and stream sedimentation.

Policy 11.2.5

Implement the City's wastewater policies through the *City of Oregon City Sanitary Sewer Master Plan*.

Finding: Complies as Proposed. This legislative code amendment proposes changes to OCMC Chapter 13.08 concerning sewer flows. These amendments are necessary to implement the inflow and infiltration (I&I) reduction plan. These amendments implement the City of Oregon City Sanitary Sewer Master Plan.

Goal 11.7 Private Utility Operations

Coordinate with utilities that provide electric, gas, telephone and television cable systems, and high-speed internet connection to Oregon City residents to ensure adequate service levels.

Policy 11.7.1

Require local service lines in new subdivisions be placed underground.

Policy 11.7.2

Coordinate with private utility providers to install infrastructure during Street construction and maintenance to reduce the need to repeatedly cut into newly paved streets.

Policy 11.7.3

Adopt lighting practices in streets and other public facilities, and encourage them in private development, that reduce glare, light pollution, light trespass, and energy use, while maintaining even lighting ensuring good visibility and safety for the public.

Policy 11.7.4

Encourage development of broadband networks in street rights-of-way in a coordinated way to provide state-of-the-art technology to residents.

Finding: Complies as Proposed. This legislative code amendment provides for an appropriate Public Utility Easement (PUE) for the franchise utilities (electric, gas, telephone, cable, fiberoptic) and provides exemptions for the relocation of existing overhead utilities to underground. This exemption will not change the requirement to install all new utilities underground to be in line with Policy 11.7.1. The Pavement Cut Standards are not proposed to be amended as part of these amendments; therefore,

Policy 11.7.2 is retained. No changes to the lighting requirements are proposed; therefore, Policy 11.7.3 is retained. The details and clarification of the PUE will improve the execution of Policy 11.7.4.

Goal 12.5 Safety

Develop and maintain a transportation system that is safe.

Policy 12.5.1

Identify improvements that are needed to increase the safety of the transportation system for all users.

Policy 12.5.2

Identify and implement ways to minimize conflict points between different modes of travel.

Policy 12.5.3

Improve the safety of vehicular, rail, bicycle, and pedestrian crossings.

Finding: Complies as Proposed. These legislative code amendments will enhance safety thru the proposed revisions to OCMC 12.04 and 17.44. By ensuring proper space for pedestrians on sidewalks by regulating the seating in the right of way through the changes to the temporary obstruction codes, safety will be improved for pedestrians. By providing more stringent standards to the geologic hazard code, developers of vacant property will have safer properties to build on and those properties that could be affected by a landslide are less likely impacted.

Goal 13.1 Energy Sources

Conserve energy in all forms through efficient land-use patterns, public transportation, building siting and construction standards, and city programs, facilities, and activities.

Finding: Complies as Proposed. This legislative code amendment will not affect the City's adopted public facilities master plans.

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 plan amendment, 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 or plan amendment;

Finding: Complies as Proposed. This legislative action will have no negative effect on the provision of public facilities and services.

Inflow/Infiltration : The amendments to OCMC 13.04 and 13.08 will have no negative effect on the public water and sewer systems. In fact, the proposed amendments will improve the public systems by reducing the negative effects of inflow and infiltration currently being experienced by the system. These amendments implement improvements from the City's Sanitary Sewer and Stormwater Master Plans. Zoning is not impacted by this amendment. These amendments allow for proper implementation of the City's Stormwater and Grading Standards and Sanitary Sewer Standards.

Undergrounding overhead utilities and revising development standards as they relate to the Public Works Standards: The amendments to OCMC 13.24, 13.34, 16.12, and Chapter 17 will have no negative effect on the public transportation system. Reducing the requirement of moving existing utilities underground will retain more physical space for the transportation system and other utilities that may be needed within the public right of way. No impact to the City's Transportation System Plan or Utility Master Plans is anticipated. These amendments will not affect the zoning designations for any lands. However, these amendments will address conflicts within current development standards relating to

the provision of a PUE and adjustments to how setbacks are measured as a result as well as limiting development review for activities occurring solely within the City right-of-way. This amendment will remove those conflicts and let zoning standards and public works standards apply in concert with one another.

Sidewalks: The amendments to OCMC 12.04 will have no negative effect on the public transportation system. The amendment and subsequent policy will provide guidelines and requirements for the use of the public right of way, which should reduce the negative impacts experienced in the traveled way. This amendment ensures proper space for sidewalks as described in the City's Transportation System Plan. Zoning is not affected by this amendment.

Geologic Hazards: The amendments to OCMC 17.44 will have no negative effects to public transportation or utility systems. The amendments strengthen requirements to those properties seeking development within geologic hazards. This will enhance the safety of utilities and roadways and will further minimize negative impacts to those systems. No utility or transportation master plan is affected by this amendment. This amendment does not affect zoning. The current properties with mapped geologic hazards will remain as mapped. Therefore, the proposed amendments are consistent with Criterion (B).

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 or plan amendment; and

Finding: Complies as Proposed.: Not applicable. None of the proposed amendments will have any impact on the existing or planned functions, capacity, and level of service of the transportation system. Therefore, the proposed amendments are consistent with Criterion (C).

D. Statewide planning goals shall be addressed if the Comprehensive Plan does not contain specific policies or provisions which control the amendment.

STATEWIDE PLANNING GOAL 1:

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

Finding: Complies as Proposed. This goal is implemented through the applicable Goals and Policies in Section 1 of the Oregon City Comprehensive Plan: Citizen Involvement. Development of the Plan included a public involvement effort. The applicant, Oregon City Public Works Department, has presented the update for input to the Development Stakeholders Group on May 9, 2019. The update was provided on the City's website during the months of February through May 2019. Local civil engineering consultants and developers were notified via email on February 5, 2019 and April 24, 2019. The standards were presented in a City Commission Work Session on May 7, 2019. The City Commission considered these standards for approval on July 17, 2019. An online Geologic Hazards Community Forum was held on September 23, 2020, which was noticed as part of the Measure 56 Land Use Notice sent to all Oregon City households.

September 23, 2020, Virtual online Community Forum

The purpose of the Community Forum was to educate the public on the municipal code with respect to geotechnical issues, educate the public on various facets of geotechnical science, and to listen to concerns from the public so that the City may implement the best-revised code possible as it looks to update existing codes. The Community Forum consisted of a panel of speakers who spoke about geologic hazards in general, as well as the recommended code revisions. The meeting also contained a Question & Answer session. A link to the video will be added to the staff report as soon as it is uploaded to the city website.

Panel Members and Speaking Topics :

- Dr. Scott Burns, PhD - Portland State University, Department of Geology

Slopes and when to be concerned. History of Oregon City.

- George Freitag, CEG, LEG, LHG - GRI, Principal

Rainfall relationship to geologic hazards

- Tim Pfeiffer, PE, GE - Foundation Engineering, Senior Geotechnical Engineer

Geologic and Geotechnical Basis for the City of Oregon City Geologic Hazards Code

- Tricia Sears, Natural Hazards Planner - Dept. Of Land Conservation and Development (DLCD)

Geologic Hazards Planning in Oregon

- Josh Wheeler, PE - City of Oregon City, Assistant City Engineer

Proposed Code Updates to OCMC 17.44

STATEWIDE PLANNING GOAL 2:

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.

Finding: Complies as Proposed. This goal is implemented through the applicable Goals and Policies in Section 2 of the Oregon City Comprehensive Plan: Land Use. Because the Plan is an ancillary document to the City's Comprehensive Plan, the application was processed pursuant to the legislative hearing process outlined in Section 17.50.170 of the Oregon City Municipal Code.

Goal 2 also provides that the public and "affected governmental units" be given the opportunity to review and comment on proposed amendments. In furthering that effort, the City has provided the Oregon Department of Fish and Wildlife notice of the proposed amendment and requested comment and no response was received.

STATEWIDE PLANNING GOAL 3: Agricultural Lands and GOAL 4: Forest Lands

Finding: Not Applicable. By definition, Oregon City does not have rural resource lands such as for agricultural or forest use within its city limits or UGB, and therefore, those goals are not applicable.

STATEWIDE PLANNING GOAL 5:

To protect natural resources and conserve scenic and historic areas and open spaces.

Finding: Complies as Proposed OAR 660-023-0250 specifies the circumstances that trigger Goal 5 review. In relevant part, an amendment affects a Goal 5 resource if the PAPA "amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource." The proposed amendments do not amend any Goal 5 adopted resource list or any standard

adopted in order to protect Goal 5 resources. Therefore, this Goal is met. These amendments further Goal 5 objectives by providing more rigorous review and greater clarity in the Natural Hazards Chapter 17.44 amendments. By clarifying and enhancing the geologic hazard code, natural resources will receive increased protection. The code revisions require stormwater evaluation, which relates to groundwater as well as overland flow and requires the applications to address any downstream impacts or regional impacts relating to stormwater flow, which in some cases relates to designated Natural Resources. No other code revisions relate to Goal 5. See responses under Comprehensive Plan Goal 7.1 for more information.

The first step in the general Goal 5 process is to compile an inventory of resources to determine which resources are significant. OAR 660-023-0030. The proposed amendment does not alter or amend the City's riparian or wetland inventories.⁴ The quantity, quality, and significance determinations for riparian resources similarly remain unchanged. Therefore, this inventory analysis step is not applicable to the City's adoption of The Geologic Hazards Overlay District Code amendments, or the other revisions to utility standards. The second step is determining a program to achieve Goal 5 based on "an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use." OAR 660-023-0040. A "conflicting use" is defined by OAR 660-023-0010 to include "a land use, or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant Goal 5 resource."

The proposed amendments add clarity to the existing standard; they generally do not further restrict or allow development. To the extent, changes occur, the only effects will be to further limit development that could conflict with riparian areas in favor of providing greater protection for Goal 5 inventoried riparian resources. Given that the proposed amendments will have a negligible impact on development, compliance with Goal 5 can be achieved through a very limited ESEE analysis. As a result, examples of the clarifications, along with a discussion of the identified ESEE consequences include:

- Additional requirements to address stormwater impacts to a mapped geologic hazard and clarifies that an existing mapped geologic hazard can either include steep slopes or historic landslide areas or both.

With the minor amendments to the Geologic Hazards Overlay District Code amendments, the City has chosen to amend its program to achieve Goal 5 with respect to inventoried riparian resources by adopting additional measures to protect those resources from an identified conflicting development uses.

STATEWIDE PLANNING GOAL 6: Air and Water Quality

To maintain and improve the quality of the air, water and land resources of the state

Finding: Complies as Proposed. This application meets Goal 6 by how it addresses removing stormwater from the sanitary sewer system in the Code revisions of 13.08. This will improve the function of the Tri City Wastewater Treatment Plant as regulated by the Department of Environmental Quality (DEQ). See response under Comprehensive Plan Goal 11.2 for more information.

STATEWIDE PLANNING GOAL Goal 7: Areas Subject to Natural Hazards

To protect life and property from natural disasters and hazards.

Finding: Complies as Proposed This legislative update includes revisions to the Geologic Hazard Code Chapter 17.44. The goal of the code amendments is to address concerns we have heard from the public and the elected officials as well as ensure the code conforms to the document titled “Preparing for Landslide Hazards : A Land Use Guide for Oregon Communities” which was published in October 2019 by the Department of Land Conservation and Development (DLCD) and the Department of Geology and Mineral Industries (DOGAMI).

Although the revisions do not map any new or expand existing mapped landslide areas or steep slopes, the revisions provide clarity and consistency between when the geologic hazard code applies and when development is exempt from further review. The revisions include a reference to the new State landslide document that should be considered by applicants and result in a more robust analysis occurring as part of development review. The proposed code revisions also include additional requirements to address stormwater impacts to a mapped geologic hazard and clarifies that an existing mapped geologic hazard can either include steep slopes or historic landslide areas or both.

Other miscellaneous improvements have been made, including:

- The waiver of review in very limited circumstances where the impact of development are deemed to have a *de minimis* impact, as consistent with current city policy. requirements .
- Additional criteria that dictate when site work may occur.
- Retaining wall design requirements have been added.
- Language has been added ensuring indemnification documents are recorded and run with the property.

These revisions improve or enhance the protection of life and property by ensuring current science concerning landslide susceptibility will be addressed. By referencing the new DOGAMI landslide guide, the review requirements have added an additional tool to ensure potential landslide impacts are addressed. Additional tools should make the analysis more informed, potentially leading to reduced risk. If adopted, these standards will be implemented for the review and approval of properties with mapped geologic hazards.

STATEWIDE PLANNING GOAL 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.

Finding: Complies as Proposed. This legislative code update will continue to provide a vibrant economy by ensuring downtown businesses can use sidewalks in a way that is beneficial by reducing stormwater from entering the sanitary system reducing unneeded treatment at the sewer treatment plant which in turn keeps rates low, and by exempting smaller developments from the requirement of relocating overhead utilities underground, in turn, reducing the cost to develop.

The Sidewalk Code in Chapter 12.04 is proposed to be amended to include standards for sidewalk seating in the right of way as a long term permanent obstruction. This will allow seating to be used for

downtown businesses in a way that supplements the business while also allow for pedestrian movements. This will help in the economic vitality of those businesses. The code amendment also allows for businesses to provide sidewalk sales on a seasonal basis, whereas now the code restricts those sales. This amendment should also assist in the economic vitality of those businesses.

The sewer code amendments set forth in OCMC 13.08 will be amended to require all stormwater to be redirected from the sanitary system back to the stormwater system. Currently, due to the City originally consisting of a combined sewer system, many older areas of the City remain connected improperly to the sanitary system, which contributes unnecessary flows to the Tri-City Wastewater Treatment Plant. As that Plant nears capacity, rates and system development charges have had to be raised to add new infrastructure. This code amendment will reduce the flows and ensure that no future expansion will be needed beyond what new housing will require stable rates and system development charges rather than a continued substantial increase to those fees.

Amendments to OCMC Chapter 16.12 will exempt the current requirement that all existing overhead utilities shall be relocated underground. This provides an undue burden on smaller developments with very little benefit to the neighborhood. While undergrounding is a requirement that reduces visual air pollution, which can stagnate property values, it only makes an impact when completed in a larger manner. This code amendment has the potential to retain or improve property values while also reducing the burden on development.

Revisions to the Geologic Hazards Overlay District provided additional clarity in the development review process for all parties. Reducing uncertainty provides real value in the larger analysis a property owner makes in determining if a site will be developed or not.

STATEWIDE PLANNING GOAL 10: Housing

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

Finding: Complies as Proposed. Revisions to 16.12 and 17.44 positively impact housing. By reducing the burden on smaller developments through exemptions for undergrounding existing overhead utilities, the amendments will make developments cost-effective; therefore, enhancing the likely development of the City's buildable lands. By strengthening the geologic hazard code, the lands become more buildable with less risk due to the rigorous reviews necessary to ensure the site is safe. Without this code revisions, a site may have become unbuildable due to the lack of certainty.

STATEWIDE PLANNING GOAL 11: Urban Development

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. This goal is implemented through the applicable Goals and Policies in Section 11 of the Oregon City Comprehensive Plan: Public Facilities. As stated in Section 11, the Code amendments are necessary to maintain compliance with Statewide Planning Goal 11, Public Facilities. Goal 11 requires that public facilities and services be provided in a timely, orderly, and efficient manner. The goal's central concept is that local governments should plan public services in accordance with the community's needs as a whole rather than be forced to respond to individual developments as they occur. The proposed municipal code amendments are created to serve the health, safety, education, welfare, and recreational needs of all Oregon City residents through the planning and provision of adequate public facilities.

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

Finding: Complies as Proposed. Revisions to 12.04 enhance the pedestrian areas in the downtown area by ensuring proper areas are available for pedestrians while also allowing for sidewalk seating. Revisions to 16.12 allow for a proper Public Utility Easement (PUE) to ensure the actual right of way is clear of any additional utilities that could cause disruptions to service when under maintenance or create additional obstructions due to the settlement of sidewalk and roadways.

17.68.025 - Zoning for land annexed into the City.

Upon annexation into the City, the property shall be rezoned from County zoning to the corresponding City zoning designation as identified in Table 17.06.030, provided the criteria for a zone change can be met.

Finding: Not applicable. No land is being rezoned as part of this legislative application.

17.68.040 - Approval by the Commission. If the Planning Commission finds that the request or application for an amendment, or change, complies with the criteria of OCMC 17.68.020, it shall forward its findings and recommendation to the City Commission for action thereon by that body.

Finding: Not applicable. No Planning Commission recommendation will relate to OCMC 17.68.020 as no rezoning or annexation is occurring with this legislative application.

17.68.050 - Conditions.

In granting a change in zoning classification to any property, the Commission may attach such conditions and requirements to the zone change as the Commission deems necessary in the public interest and such conditions and restrictions shall thereafter apply to the zone change or map amendment.

Finding: Not applicable. No land is being rezoned as part of this legislative application.

Chapter 17.50 Administration and Procedures

17.50.050 – Pre-application conference.

A. Pre-application Conference. Prior to a Type II – IV or Legislative application, excluding Historic Review, being deemed complete, the applicant shall schedule and attend a pre-application conference with City staff to discuss the proposal, unless waived by the Community Development Director. The purpose of the pre-application conference is to provide an opportunity for staff to provide the applicant with information on the likely impacts, limitations, requirements, approval standards, fees and other information that may affect the proposal.

- 1. To schedule a pre-application conference, the applicant shall contact the Planning Division, submit the required materials, and pay the appropriate conference fee.*
- 2. At a minimum, an applicant should submit a short narrative describing the proposal and a proposed site plan, drawn to a scale acceptable to the City, which identifies the proposed land uses, traffic circulation, and public rights-of-way and all other required plans.*
- 3. The Planning Division shall provide the applicant(s) with the identity and contact persons for all affected neighborhood associations as well as a written summary of the pre-application conference.*

B. A pre-application conference shall be valid for a period of six months from the date it is held. If no application is filed within six months of the conference or meeting, the applicant shall schedule and attend another conference before the City will accept a permit application. The Community

Development Director may waive the pre-application requirement if, in the Director's opinion, the development has not changed significantly and the applicable municipal code or standards have not been significantly amended. In no case shall a pre-application conference be valid for more than one year.

- C. *Notwithstanding any representations by City staff at a pre-application conference, staff is not authorized to waive any requirements of this code, and any omission or failure by staff to recite to an applicant all relevant applicable land use requirements shall not constitute a waiver by the City of any standard or requirement.*

Finding: Complies as Proposed. Public Works attended PA 19-69 on December 3, 2019

17.50.055 - Neighborhood association meeting.

Neighborhood Association Meeting. The purpose of the meeting with the recognized neighborhood association is to inform the affected neighborhood association about the proposed development and to receive the preliminary responses and suggestions from the neighborhood association and the member residents.

- A. *Applicants applying for annexations, zone change, comprehensive plan amendments, conditional use, Planning Commission variances, subdivision, or site plan and design review (excluding minor site plan and design review), general development master plans or detailed development plans applications shall schedule and attend a meeting with the City-recognized neighborhood association in whose territory the application is proposed no earlier than one year prior to the date of application. Although not required for other projects than those identified above, a meeting with the neighborhood association is highly recommended.*
- B. *The applicant shall request via email or regular mail a request to meet with the neighborhood association chair where the proposed development is located. The notice shall describe the proposed project. A copy of this notice shall also be provided to the chair of the Citizen Involvement Committee.*
- C. *A meeting shall be scheduled within thirty days of the date that the notice is sent. A meeting may be scheduled later than thirty days if by mutual agreement of the applicant and the neighborhood association. If the neighborhood association does not want to, or cannot meet within thirty days, the applicant shall host a meeting inviting the neighborhood association, Citizen Involvement Committee, and all property owners within three hundred feet to attend. This meeting shall not begin before six p.m. on a weekday or may be held on a weekend and shall occur within the neighborhood association boundaries or at a City facility.*
- D. *If the neighborhood association is not currently recognized by the City, is inactive, or does not exist, the applicant shall request a meeting with the Citizen Involvement Committee.*
- E. *To show compliance with this section, the applicant shall submit a copy of the email or mail notice to the neighborhood association and CIC chair, a sign-in sheet of meeting attendees, and a summary of issues discussed at the meeting. If the applicant held a separately noticed meeting, the applicant shall submit a copy of the meeting flyer, postcard or other correspondence used, and a summary of issues discussed at the meeting and submittal of these materials shall be required for a complete application.*

Finding: Complies as Proposed. Attendance at the Citizen Involvement Committee occurred on December 2, 2019 concerning the inflow/infiltration Policy and Code Amendments and the Undergrounding Overhead Utility Policy and Code amendments. The Citizen Involvement Committee was also invited to participate in the September 23, 2020 Geologic Hazards Webinar, which included a question and answer portion.

17.50.070 - Completeness review and one hundred twenty-day rule.

- C. Once the Community Development Director determines the application is complete enough to process, or the applicant refuses to submit any more information, the City shall declare the application complete. Pursuant to ORS 227.178, the City will reach a final decision on an application within one hundred twenty calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to suspend the one hundred twenty calendar day time line or unless State law provides otherwise. The one hundred twenty-day period, however, does not apply in the following situations:*
- 1. Any hearing continuance or other process delay requested by the applicant shall be deemed an extension or waiver, as appropriate, of the one hundred twenty-day period.*
 - 2. Any delay in the decision-making process necessitated because the applicant provided an incomplete set of mailing labels for the record property owners within three hundred feet of the subject property shall extend the one hundred twenty-day period for the amount of time required to correct the notice defect.*
 - 3. The one hundred twenty-day period does not apply to any application for a permit that is not wholly within the City's authority and control.*
 - 4. The one hundred twenty-day period does not apply to any application for an amendment to the City's comprehensive plan or land use regulations nor to any application for a permit, the approval of which depends upon a plan amendment.*
- D. A one-hundred day period applies in place of the one-hundred-twenty day period for affordable housing projects where:*
- 1. The project includes five or more residential units, including assisted living facilities or group homes;*
 - 2. At least 50% of the residential units will be sold or rented to households with incomes equal to or less than 60% of the median family income for Clackamas County or for the state, whichever is greater; and*
 - 3. Development is subject to a covenant restricting the owner and successive owner from selling or renting any of the affordable units as housing that is not affordable for a period of 60 years from the date of the certificate of occupancy.*
- E. The one hundred twenty-day period specified in OCMC 17.50.070.C or D may be extended for a specified period of time at the written request of the applicant. The total of all extensions may not exceed two hundred forty-five calendar days.*
- F. The approval standards that control the City's review and decision on a complete application are those which were in effect on the date the application was first submitted.*

Finding: Complies as Proposed.

Not applicable. Legislative actions are not subject to this standard.

III. Staff recommendation:

Based on the findings identified above and including all items entered into the record, the proposal to amend the Titles 12, 13, 16 and 17 of the Oregon City Municipal Code, is consistent with the Oregon City Comprehensive Plan and State Land Use Goals. Staff recommends approval of Planning file GLUA 20-00033 LEG-20-00001 Public Works Code Amendments.